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H.R. 2267, THE INTERNET GAMBLING REGULATION, CONSUMER PROTECTION, AND ENFORCEMENT ACT

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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H.R. 2267, THE INTERNET GAMBLING REGULATION, CONSUMER PROTECTION, AND ENFORCEMENT ACT

Wednesday, July 21, 2010

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 2:30 p.m., in room 2128, Rayburn House Office Building, Hon. Barney Frank [chairman of the committee] presiding.

Members present: Representatives Frank, Waters, Sherman, Moore of Kansas, Clay, McCarthy of New York, Baca, Green, Cleaver, Hodes, Wilson, Perlmutter, Carson, Speier, Adler, Kosmas, Himes, Peters; Bachus, Paul, Biggert, Hensarling, Campbell, Bachmann, Marchant, Posey, Jenkins, Lee, and Lance.

The CHAIRMAN. The hearing will come to order. I apologize. Obviously, we were put back by the White House statement and then by the votes, and I want to get right to it so we can get this done before the votes.

We have 10 minutes for opening statements. I will take 4 minutes for myself and waive them, so we will have 6 minutes left. I have 3 members who will get 2 minutes each. I recognize the ranking member for 5 minutes.

Mr. BACHUS. Thank you, Mr. Chairman. I would like to submit my full statement for the record.

The CHAIRMAN. Without objection, anything anybody wants to submit will be made a part of the record.

Mr. BACHUS. And also, before we start the time, I would ask unanimous consent to—

The CHAIRMAN. I just said anything anybody wants to insert can be inserted.

Mr. BACHUS. Okay, great.

The CHAIRMAN. So let's not waste any more time. Go ahead.

Mr. BACHUS. Thank you, Mr. Chairman. The timing of today's hearing on Chairman Frank's proposal, legalized gambling over the Internet, strikes some of us as ironic, to say the least. After all the talk during the last year about shutting down the casinos on Wall Street, it makes no sense to me why we would be taking steps to open casinos in every home, dorm room, library, iPod, BlackBerry, iPad, and computer in America, many of which belong to minors.

This morning, President Obama signed legislation, and proponents claim it will protect consumers from unwise financial decisions and predatory practices by financial institutions. This after-

noon, the committee will consider the merits of a bill that will fleece Americans by reversing current restrictions on Internet gambling, which is perhaps the ultimate example of Americans making unwise and harmful financial choices. It seems that the Democrats' solicitude for the well-being and protection of American consumers has its limits.

Since this Congress took action in 2006 to address the scourge of Internet gambling, criminal offshore gaming interests have been relentless in their campaign to repeal the law, or at least undermine it. In many quarters, they were the second or third leading lobbying group in Washington in dollars spent. Lots of these groups have innocuous names like, "The Safe and Secure Internet Gambling Initiative." But in spite of their names, these are large corporate interests that are protecting the bottom line at the expense of addiction and destruction of our youth and our homes and communities.

That is why it makes no sense to me how the same Democrats who claim they are protecting consumers by further regulating Wall Street can say with a straight face that unleashing Internet gambling will keep kids from becoming Internet gamblers.

Now, regarding the potential for tax revenue, H.R. 2267 provides a restrictive opt-out mechanism through which the States may decline to participate in the Federal licensing system. However, the Joint Committee on Taxation's most expansive—4 different estimates, $42 billion, is based on discarding even these State opt-out rights in favor of complete Federal preemption. The estimate that is most closely based on the text of Frank and McDermott's bill to regulate and tax the Internet indicate they will generate just $10 billion in Federal revenue. That wouldn't even pay for half of the funding needed for Chairman Frank's so-called Wall Street Reform bill.

This rush to embrace Internet casino gambling seems at least partially motivated by the Majority's desperate search for more revenue to pay for an ever-bigger Federal Government. I ask my colleagues, "How does raking in cash from gambling addicts differ from taking a cut from the heroin sold to drug addicts?" Is the logic that if we don't, someone else will?

I'm sorry, but the Federal Government should not take advantage of our youth, the weak and the vulnerable, in the name of new revenues to cover more government spending. Considering that the social and economic harm done to American families and to young people in particular from unlawful Internet gambling is well documented, I ask, is passing new legislation to create a Federal right to gamble that has never existed in our country's history, and Internet gambling taxes for more spending really worth it?

Mr. Chairman, I strongly urge opposition of this bill. I yield back the balance of my time.

I actually do have additional time, so I do want to say one other thing. If we were to tell our young people that they should not smoke or drink, and then we put a bottle of whiskey or a pack or a carton of cigarettes in their room, they might get a mixed message. And if this Congress continues to hope that our youth will not become addicted to gambling, there is no reason for us to pose the efforts that this bill does to allow Internet gambling on every com-

puter in every dorm room and in every bedroom of our youth. It simply makes no sense.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Sherman, is recognized for 2 minutes.

Mr. SHERMAN. Thank you. In the past I have opposed this, saying you should have to leave your house to lose your house. I am re-evaluating. The two strongest arguments for the bill are contradictory, and yet they may both be true.

One is that our technology is so weak that we can't prevent Americans from gambling on sites in Antigua, so we might as well try to regulate and tax it.

The second argument is that our technology is so strong that, after the passage of this bill, we will use technological methods to make sure that those States that have opted out will not have their residents on these gambling sites, and that minors will be prevented from gambling.

I do think there are two aspects of the bill that would deserve improvement. One is a simple technical fix, and that is if we're going to give States 180 days to opt out, it should be 180 legislative days, according to that State's legislative calendar.

The second is that I would want to prevent the bad actors, the ones that are violating our law today, from benefitting from this bill. First, those who are violating our law shouldn't benefit from the new law. Second, these entities have proven they can tap into the American market while providing zero American jobs.

And, finally, we are going to rely on those who operate these sites to keep minors off, to respect State opt-out. And those entities that have proven that they can build a large and profitable business by defying and violating U.S. law should not be invited to play a role where they are going to have to act as policemen. We don't want the former criminals to be deputized as cops. I yield back.

The CHAIRMAN. The gentleman from Texas, Mr. Hensarling, for 2 minutes.

Mr. HENSARLING. Thank you, Mr. Chairman. First, I question the priorities of our committee, as we are here today. I know the ink is barely dry on the Fin Reg bill, but weighing in at over 2,000 pages, several hundred different rulemakings and studies, it seems to me that what we ought to be doing—and I am not trying to relitigate the bill—is working to ensure that we can remove the greatest amount of uncertainty in the quickest amount of time, since uncertainty is the greatest impediment to job growth today.

So, I question that priority. Clearly, this is a committee that, in the past, has already rolled the dice on the Government-Sponsored Enterprises. And yet, that clearly is not a priority, as we have prioritized Internet gambling over doing something about the Government-Sponsored Enterprises.

The second point I would like to make is I understand the proponents have talked about the possibility of new revenues. To the extent those new revenues were actually used to reduce the deficit, I might be inclined to take a very careful look at support. But I'm afraid that simply new revenues to grow new government programs is, frankly, not terribly appealing to me.

I have heard those who have argued that this is a matter of personal freedom. And, you know what? I would tend to agree with that argument if the cost associated with Internet gambling was internalized to that individual. But, unfortunately, given the social welfare state that has been created, the fact that we are a bail-out nation—I have seen many compelling studies from the Federal Reserve, talking about the incidents of bankruptcy linked to proximity of gambling casinos, and homelessness in Australia associated with the activity—I am not convinced that this could be internalized to the individual.

And so, yes, I do believe freedom includes the freedom to do things we disagree with, but not at the cost of society.

The CHAIRMAN. The gentleman from Indiana, Mr. Carson, for 2 minutes.

Mr. CARSON. Thank you, Mr. Chairman. As a former law enforcement official, I am sensitive to the needs of protecting our citizens from the potential harms of gambling. However, I also see the economic benefits of the gaming industry.

In order to protect our citizens, while opening the door to billions of dollars in potential revenue, a licensing and regulatory framework must be established to legitimize and control the Internet gaming industry. A ban on Internet gaming does not work. It has pushed the industry underground, leaving consumers completely unprotected.

Here in the United States, we have the largest percentage of Internet poker players worldwide. This highlights our need to have a rational approach towards an industry that is not going away.

I support a bill which establishes regulations over the gaming industry, and has protections against underage gambling, compulsive gambling, identity theft, and fraud. This new bill would include vetting potential licensees, which will ensure the safety and soundness of Internet gaming sites and high standards to prevent fraud and abuse of customers. This bill gives the people the personal freedom to gamble, and also generates revenues for our Nation.

Consumers falling victim to financial fraud is one of the reasons why I introduced the Financial Literacy Act. This legislation helps community organizations to provide better financial education to young adults. It's clear that young adults may not understand the addictive nature of Internet gaming, which can cause reckless spending and debt, if not monitored.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentleman from California, Mr. Campbell, for 1½ minutes.

Mr. CAMPBELL. Thank you, Mr. Chairman. I don't gamble. I don't particularly like it. In poker, I always forget there is a straight and a flush, and which is which, and what is better than the other, and I forget all the time, which is why all my friends ask me to play with them.

But freedom is not about legislating what I like to do and making illegal what I don't. Freedom is about allowing Americans to do what they want to do. And Americans clearly want to gamble on the Internet. They are doing it now. They are doing it illegally with sites that are from overseas, and poker players are banding—law-abiding citizens are banding together as poker players to play in

what is now an illegal activity, not unlike the people who made stills and drinking during the age of Prohibition.

There is no reason that we need to make all those law-abiding citizens into criminals. We can do this, we can legalize Internet gambling, and provide those people freedom, but also provide them protection, consumer protections that they are not currently getting on Internet sites that are overseas, protections that let them know how much of the winning is going to be paid out, how random numbers are generated, all kinds of things to protect those consumers who are not currently being protected.

We can provide economic growth in this country by making sure that these legal gambling operations are located and sited here, rather than seeing that economic growth go somewhere else. And, in fact, maybe we will attract foreigners to American sites to actually bring something back to this country.

And it has been mentioned we can also raise a little tax revenue without raising taxes. I yield back.

The CHAIRMAN. The gentleman's time has expired. The Republican side has 1½ minutes left. The gentleman from Alabama seeks to be recognized for the remaining 1½ minutes.

Mr. BACHUS. Thank you, Mr. Chairman. Mr. Chairman, I want to share four letters that I have from the Administration, and from attorneys general across the country.

The first letter is from Tim Geithner. And in it he urges us to go ahead and implement the Unlawful Internet Gambling Enforcement Act. Of course, what your bill does is vitiates that. He also says that it's the position of the Department of the Treasury—and I would think that means the Administration—that no further extension of the compliance date set for June 1, 2010, is warranted.

He said, "I believe that regulation is appropriate," and that's the regulation that the chairman wants to repeal, "and will be cost-effectively carried out to enforce the purpose of the Unlawful Internet Gambling Enforcement Act," and that is to stop these criminal enterprises from operating.

Third, he says, "I believe the enforcement of the law will assist the United States in fighting the financing of illicit enterprises that threaten national security." So, at least we have from the Secretary of the Treasury a letter that says these sites are a threat to national security, which we shouldn't dismiss lightly.

We also have a letter—

The CHAIRMAN. The gentleman's time has expired.

Mr. BACHUS. Thank you.

The CHAIRMAN. I will recognize myself now for 30 seconds just to read from a letter from the Financial Services Roundtable: "We support your efforts to bring greater clarity;" and "We strongly support your efforts to create a licensing and regulation regime."

I should say that people in the financial industry are overwhelmingly supportive of this, because of the enormous burden the chosen form of regulation puts on them. They have to monitor—I will give myself another 45 seconds—they are given the enormous burden of trying to decide what payment was for what. And it's a great burden on credit unions and on banks. They are overwhelmingly opposed to it.

The Chamber of Commerce of the United States of America supports H.R. 2267. They have significant concerns with its regulatory implementation. We hear a lot of complaints about regulatory burden, unless it's in the service of some people's particular view that they would like to impose on other people, in terms of their own personal moral code. And the Chamber strongly supports this bill.

And then another—not always my ally—Grover Norquist—I guess I'll trade you for Tim Geithner; we'll work that out on this bill—"On behalf of Americans for Tax Reform, I write to express this organization's support for H.R. 2267. These are people who believe in individual freedom and choice, and the right of people to make their own decisions."

And finally, the National Association of Federal Credit Unions wanted to be on record here. And we also have, of course, a witness from the Credit Union National Administration.

With that, we are going to turn to the witnesses. And I will call on the gentleman from New Hampshire to introduce the first witness.

Mr. HODES. Thank you, Chairman Frank. And thanks for holding this hearing. We have been trying to tackle the issue of online gambling since I joined the committee in 2007. And I am confident we are going to find a solution of where we find the right balance between appropriate regulation and consumer protection in making sure that personal freedoms are not infringed upon.

I want to introduce one of the witnesses who is testifying today on behalf of the Poker Players Alliance, Ms. Annie Duke. Annie is a well-known poker player, not just in my hometown and in my district, where she was born and raised in Concord, New Hampshire, but across the country and around the world. Annie's family is well-known in New Hampshire. Her father, Richard Lederer, taught at St. Paul's school in Concord, and her brother, Howard Lederer, is also a famous poker player. She's an accomplished player, has an extraordinary background in education, and has been advocating for regulating online poker for many years, so I look forward to hearing from her and the rest of the panel on this important legislation.

The CHAIRMAN. We will begin with Ms. Duke. One of our colleagues wants to make another introduction, but we will begin with Ms. Duke.

Thank you for being here. You may proceed.

STATEMENT OF ANNIE DUKE, PROFESSIONAL POKER PLAYER, ON BEHALF OF THE POKER PLAYERS ALLIANCE

Ms. DUKE. Chairman Frank, Ranking Member Bachus, and members of the committee, I would like to thank you for this opportunity to testify regarding H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act.

My name is Annie Duke, and I am a professional poker player. In fact, I have just returned from the World Series of Poker in Las Vegas, which is now the third most watched sporting event in the world. This year's World Series of Poker experienced a 20 percent increase in participants from 2009; much of this growth is driven by the popularity of Internet poker here in the United States and across the globe.

I am here today to testify on behalf of the Poker Players Alliance, a grassroots organization of 1.2 million people who play poker in their homes, in card rooms and casinos, at bars and charitable events, and on the Internet. To be sure, the organization was founded in response to efforts to prohibit poker playing on the Internet, but our organization believes that the medium is irrelevant; our focus is the game.

As a professional poker player, I am aware of the rich tradition this great American game has in Washington politics. Today, such Washington leaders as President Obama and Justice Scalia continue that tradition. These leaders and millions of everyday Americans play for recreation and relaxation, for intellectual challenge and stimulation, for fun and profit.

But at stake in this debate is a far more important tradition for our country and its government. At its most basic level, the issue before this committee is personal freedom—the right of individual Americans to do what they want in the privacy of their own homes without the intrusion of government. From the writings of John Locke and John Stuart Mill, through their application by Jefferson and Madison, this country was among the first to embrace the idea that there should be distinct limits on the ability of the government to control or direct the private affairs of its citizens.

More than any other value, America is supposed to be about freedom. In fact, it was Ronald Reagan who once said, "I believe in a government that protects us from each other. I do not believe in a government that protects us from ourselves."

I believe that many of those who seek to prohibit Internet gaming and Internet poker are motivated by good intentions: to protect the roughly 1 percent of people who are subject to pathological gambling; and to prevent minor children from gambling online. But the good news here is that public policy need not decide between respecting individual freedoms and protecting vulnerable populations in the context of Internet poker. Both of these goals are best served by appropriate licensing and regulation, and this is exactly what H.R. 2267 proposes.

To be clear, H.R. 2267 is not a bill that expands Internet gambling in America. It simply provides the appropriate government safeguards to an industry that currently exists and continues to grow and thrive. American poker players are not content with a system where they are limited to play on offshore sites regulated by foreign governments. They want to play on sites licensed in the United States, which will provide even greater consumer protections for the player and yield badly-needed tax revenue for State and Federal Governments.

Under a U.S.-regulated system, an authorized licensee would be required to have technologies in place to: prevent minors from playing; identify and restrict problem gamblers; and keep people in opt-out States from playing online. Further, regulation would eliminate any concerns about money laundering. Through regulation, a licensed site would be required to adopt the same stringent and effective anti-money laundering measures as banks have in place today.

As a mother of four, I am acutely aware of the need to protect children on the Internet. Interestingly, the current law provides no

consumer protection whatsoever. The UIGEA does not keep a single child off an Internet gaming site, nor does it provide any protections for problem gamblers, or mechanisms to prevent fraud and abuse. It only regulates banks, not those who operate the games. H.R. 2267 corrects this untenable posture, and puts us in the greatest position to protect consumers, minors, and vulnerable populations.

Mr. Chairman, I would like to close with the point I started with: this issue is about personal liberty and personal responsibility—the freedom to do what you want in the privacy of your own home. I suspect that some on this committee support freedom, except where individuals would use that freedom to make what they believe to be bad choices. "Freedom to make good choices" is an Orwellian term for tyranny—the governments of China, Cuba, and Iran all support the freedom of their citizens to make choices that their governments perceive as good.

For those whose religious or moral beliefs hold gaming as abhorrent, I fully support their right to live by those beliefs. I support their right to choose to not gamble. What I do not support, and what this committee and this Congress should not tolerate, are laws that seek to prevent responsible adults from playing a game we find stimulating, challenging, and entertaining.

H.R. 2267 provides this freedom in a safe and regulated environment and I urge everyone on this committee to support this commonsense policy. However you might feel about gambling on the Internet, I would suggest that gambling with freedom is far more risky.

Mr. Chairman and members of the committee, I thank you for this opportunity to address you today, and I look forward to the testimony of my fellow panelists and the opportunity to engage with you during the question-and-answer period.

[The prepared statement of Ms. Duke can be found on page 37 of the appendix.]

The CHAIRMAN. Thank you.

Next, we have Mr. Michael Fagan.

STATEMENT OF MICHAEL K. FAGAN, LAW ENFORCEMENT/ ANTI-TERRORISM CONSULTANT

Mr. FAGAN. Good afternoon, Chairman Frank, Ranking Member Bachus, and your fellow honorable Representatives and committee staff. I am Mike Fagan, a thorn between two roses here. I'm a private citizen representing no one but myself. I have served as a career prosecutor for 30 years. From 1996 to 2008, I probably had as much or more involvement as anyone in investigation and prosecution proceedings concerning Internet-based gambling.

Given my responsibilities, I frequently had occasion to reflect upon the growth and variety of means of gambling in the United States. I have no religious, moral, or philosophical attitude against gambling, nor some Libertarian or pseudo-Libertarian attitude in favor of legalizing Internet gambling.

Before Congress takes the extreme step of refuting and jettisoning our national history and tradition of letting local and State governments decide what vices will be prohibited or permitted and at what levels, Congress should first direct and fund the Depart-

ment of Justice and/or the State attorneys general to enable a coordinated, systematic task force approach to enforcing existing laws prohibiting and taxing such conduct.

And on that last point, taxing, offshore online casinos and sports books doing business in the United States sometimes say, "Gee, we want to pay taxes in the United States; just legalize us." But they're already subject to the wagering excise tax, yet not a one of them, to my knowledge, has ever voluntarily forwarded a penny of this tax to the United States.

Instead, they're now trying to get this committee and Congress to legalize remote control gambling, and to set tax rates extraordinarily favorable to them, as compared to the much higher tax rates that are applicable, for example, to brick-and-mortar casinos and to race tracks and riverboat gaming. Such an approach is consistent, in my experience, with the corner cutters and sharp operators in the Internet gambling world who were often associated, in my experience, with organized crime groups, or mimicked their ways.

The deeper our investigation would go into these operations, we could count on finding additional criminality, or at least predatory behavior, outright fraud, threats, coercive tactics, point shaving, cash payments to steer athletes to certain agents or programs, illegal drug use and distribution, the investment in and operation of illegal online pharmacies, sophisticated money laundering, tax evasion—equivalent to the techniques used by drug lords—and terrorist financing opportunities. All these things were present in investigations that I oversaw.

On that last point, I cannot comment on specifics in the United States, but a British publication, "Policing," noted this past February that the United Kingdom's security services are running 23 ongoing investigations into the exploitation of gambling Web sites to finance terrorism.

Legalizing and regulating Internet gambling in the United States would do nothing to limit that risk. And, by increasing the total number of avenues to move and hide and disguise money, it actually increases the risk, enabling, for example, these sites to serve the same functions as hawalas. The cost of legalization, regulation, and taxation simply do not outweigh these many negatives.

A $43 billion figure in expected revenues put before the committee is not based in reality. There will be far smaller figures, based on the opt-outs, if this bill would be passed. The far smaller revenues, of course, will be offset by losses in taxes from jobs. Particularly cruel will be the loss of jobs for Native Americans in their casinos. No satisfactory requirement exists in the bill for the operators to be based in the United States completely and entirely. There will be outsourcing of elements of these offshore casinos—or authorized casinos, should the bill be passed.

There will be no means of effective law enforcement for these offshore elements of the online casinos. The bill has no mandate for adequate employee background checks, nor for regular and meaningful certifications of the equipment and software and of the suppliers, to ensure honesty and integrity in the business.

Astonishingly, no bar exists in the bill, as proposed, to keep out those who have purposely disregarded Federal law. This puts at a

huge disadvantage those in the United States who have operated their land-based gambling business in compliance with the law. It's like if you legalized illegal drugs, and turned over the business to the Cali Cartel or Colombian or Mexican drug lords. What message does that send to the business community? Years of compliance bring you a stab in the back, delivered to you by your government.

The bill provides insufficient assurance of effective regulation. Indeed, if legalized, Internet gambling, by its speed, nature, size, and scope will preclude effective and affordable regulation. You will never find the needle in an electronic haystack, given the volume of transactions.

The bill, simply put, is the fertilizer for the creation of networks of misery. A pathological or problem gambler doesn't just hurt himself. Internet gambling promises to increase the rate of pathological problem gambling, and I certainly would dispute Ms. Duke's cite of 1 percent on that figure.

The bill also portends a fundamental change in government relations between Federal and State Governments, and the everyday lives of our citizens. Prepare your constituents, if you pass this bill, for intense and aggressive and inescapable advertising and marketing ploys which, over time, do change behaviors. We have not even tested fairly—

The CHAIRMAN. Mr. Fagan, your time is expiring.

Mr. FAGAN. Thank you.

[The prepared statement of Mr. Fagan can be found on page 41 of the appendix.]

The CHAIRMAN. Does the gentleman from Connecticut have an introduction to make?

Mr. HIMES. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut is recognized.

Mr. HIMES. Thank you, Mr. Chairman.

It's a pleasure to introduce Mohegan Tribe Chairwoman Lynn Malerba to testify before the committee today. She is Tribal Chairwoman of the Mohegan Tribe, and will be inducted on August 15th to be Chief of the Tribe, the first female Chief of the Tribe in 300 years of that Tribe's history.

In her position, the Chairwoman oversees approximately 1,800 tribal members, and the operations of the Tribe's casino at the Mohegan Sun, which has been an important contributor to the Connecticut economy. She has a background as a director of health and human services for the Tribe, and a background in nursing.

Most importantly, Mr. Chairman, she is an inheritor of a long tradition of this Tribe of what they call the "Mohegan Way," which is hundreds of years of cooperation with the Federal Government in a constructive way. And, therefore, it's a pleasure to welcome the Chairwoman and I anticipate her testimony.

Thank you, Mr. Chairman.

The CHAIRMAN. Ms. Malerba, please go ahead.

STATEMENT OF THE HONORABLE LYNN MALERBA, TRIBAL CHAIRWOMAN, THE MOHEGAN TRIBE

Ms. MALERBA. Good afternoon, Chairman Frank, Ranking Member Bachus, and members of the committee, and Congressman Himes. Again, my name is Lynn Malerba, Chairwoman of the Mo-

hegan Tribe. It is a great honor to be with you today to present testimony on H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act.

As you have heard, our Tribe has a philosophy known as the "Mohegan Way," which stresses cooperation, rather than conflict, when the Tribe is faced with a difficult decision or problem. This tradition started with our great leader, Sachem Uncas, who sought to protect our Tribe's sovereignty, traditions, and people in the face of European colonization, disease, and new technologies previously unknown to our people.

Chairman Frank, since the day you introduced H.R. 2267, you have shown your great respect for tribal sovereignty by actively seeking the input of Tribes in your legislation to ensure that we are treated fairly. In doing so, your actions have shown that you have a desire for cooperation, rather than conflict, in the spirit of the Mohegan Way.

In response to your invitation to cooperation, the Mohegan Tribe has joined forces with a coalition of other leading gaming Tribes from Connecticut to California, in order to work with you and your staff in addressing the issue of Internet gaming. Our goal is to make suggestions on how to further improve H.R. 2267 to ensure all Tribes may reap the benefits of Internet gaming if they choose to do so. Our coalition includes the Mississippi Band of Choctaw, the Barona Band of Mission Indians from California, and all member Tribes of the California Tribal Business Alliance.

Indian gaming has been the biggest single economic development success story in tribal history. Since the enactment of the Indian Gaming Regulatory Act in 1988, Tribes have opened 419 gaming facilities across 28 States, creating half-a-million new jobs. These tribal casinos are currently generating nearly $27 billion in much-needed revenue, which is used to fund urgent tribal priorities such as housing, health care for our elders, and education for our youth.

Our tribal coalition has been part of the success story of Indian gaming, individually running some of the largest tribal casinos in the United States. We have extensive experience in regulating gaming activities, protecting consumers, and exercising our sovereign rights as tribal nations, which gives us unique insight into the impacts of H.R. 2267 on tribal gaming.

While the Mohegan Tribe and our coalition partners agree that your vision can work—regulating Internet gaming, if done properly—many are still forming their opinions, and we respect their rights as sovereigns to do so. The National Indian Gaming Association and United South and Eastern Tribes are currently undertaking a comprehensive study of those issues involved.

However, I believe there is universal agreement among all Tribes that if Internet gaming were to be permitted, Indian Tribes must have the ability to participate on a level playing field with other gaming interests, and have tax parities with any State government that may choose to participate. And the gains that we have made as tribal nations under IGRA must not be endangered.

After studying H.R. 2267 and applying our experience in running successful tribal gaming operations, it is our opinion that the bill can be further enhanced from its current form. I have provided

written testimony, and I have gone into significant detail on those improvements, which I wish to highlight here.

The most important improvement, from our perspective, is a provision that makes it clear that tribal governments and tribal gaming facilities should be clearly authorized to operate Internet gaming sites. The licensing standards should be modified to ensure application to a tribal government or its designated tribal agency or entity operating the site.

The issue of limitations under the Indian Gaming Regulatory Act on acceptance of wagers by Tribes from persons not on reservation lands must be addressed to ensure that Tribes operating government gaming operations can accept Internet wagers from persons both on and off their reservation, as long as they are in a location that has not otherwise opted out. Otherwise, there would be no support for H.R. 2267 from the Tribes.

We suggest you extend the exclusion from IGRA to Tribal State gaming compacts, pursuant to IGRA. As you are aware, IGRA requires that Tribes and States must enter into a compact for any type of class three gaming house bank games which are offered by the Tribe.

A provision needs to be added that clarifies that all games offered would be exempt from IGRA under compacting provisions allowing Tribes to compete on a level playing field with non-tribal competitors, and pay the same Federal tax. Adding this measure would ensure that no conflicts would occur between States and Tribes under existing compacts.

The tribal nations respectfully request meaningful consultation before this statute is enacted on how best to regulate Internet gaming. We are experts in this field, and we believe that we can provide you expertise in how best to regulate the games.

We also urge further restrictions on certain overseas competitors. All Tribes and commercial casinos in the United States have strictly complied with current laws. We believe fairness dictates that H.R. 2267 be modified in regard to licensing of foreign operators to require some period of lawful operations under license by a reputable foreign government as a prerequisite for seeking licensure on the same footing as U.S. applicants.

We support enhancements to the licensing and regulatory provisions, such as requiring that all Internet gaming facilities be licensed in the United States.

Again, I appreciate the opportunity to testify today. The rest of my comments are included in my written testimony.

[The prepared statement of Chairwoman Malerba can be found on page 48 of the appendix.]

The CHAIRMAN. Next, Tom Malkasian, vice chairman and director of strategic planning for Commerce Casino.

STATEMENT OF TOM MALKASIAN, VICE CHAIRMAN AND DIRECTOR OF STRATEGIC PLANNING, COMMERCE CASINO

Mr. MALKASIAN. Thank you. Good afternoon, Chairman Frank, Ranking Member Bachus, and members of the Financial Services Committee. It is a pleasure to be here today to offer my testimony on H.R. 2267. My name is Tom Malkasian, and I am an owner, a board member, and the director of strategic planning for the Com-

merce Casino, located in Los Angeles, California. The Commerce Casino is the world's largest poker casino, with over 243 licensed gaming tables, and over 2,600 employees.

Our coalition of poker clubs and sovereign Indian nations in California support some legalization of Internet gaming. We believe limited forms of online poker can provide safe play for our patrons and tax revenues to the jurisdictions in which we operate, but only if the legislation is done the right way.

Therefore, it is with regret that I must testify in strong opposition to H.R. 2267 as currently written, and urge members of the committee to vote against it, because the legislation is fundamentally flawed and unsound.

H.R. 2267 and its companion bill, H.R. 4976 are based on false revenue assumptions that: would require the removal of the right of any State or Tribe to opt out of the bill in order to achieve the advertised tax revenues of $42 billion over 10 years; contain no legal regulation, licensing, or controls on Internet gaming; override current State and tribal gaming laws; violate exclusive tribal gaming rights in many States; enshrine arbitrary and unfair tax inequities into law, including unprecedented direct Federal tax on Indian tribal governments; endanger the flow of commercial and tribal gaming revenue to local, State, and Federal Governments; and brazenly reward illegal foreign operators by locking in unprecedented market advantages that can undermine and destabilize the land-based American gaming industry.

I am a numbers guy. I have learned that no matter how good the numbers sound when an idea is being promoted, if the details don't support the numbers, the plan won't work. This is the case in H.R. 2267.

Supporters are misleading members to believe that a significant amount of tax revenue will be raised by the bill, when those revenue estimates are not based on language currently in the bill, and would require removal of the ability of States and Tribes to opt out.

H.R. 2267 supporters cite the congressional Joint Committee on Taxation study that provides 3 scenarios that forecast tax revenues in the $10 billion to $14 billion range over 10 years, and a fourth scenario that projected $42 billion over a 10-year period. Even the lowest revenue estimate assumes that all Internet gaming facilities licensed under the bill would be required to be located in the United States. But that requirement does not exist in H.R. 2267. The highest revenue scenario of $42 billion also assumes no State or Tribe would be permitted to opt out.

You can either have State opt-out provisions or you can hope to have $42 billion in Federal tax revenue, but you can't have both. To accomplish this, you must take away the right of each and every State and every one of the 564 Indian Tribes to opt out of Internet gaming, and require they must participate in the Federal system. The attorneys general of Maryland, Florida, Indiana, Colorado, and Virginia have already condemned this potential Federal takeover of their gaming laws.

H.R. 2267 allows licensing for companies which have been taking bets illegally from U.S. residents for years, giving a "get-out-of-jail-free card" of sorts to criminals who will have a huge competitive advantage over the U.S. companies who followed the law.

Let me illustrate how absurd this is. If Congress were to decide to legalize marijuana, certainly no one would suggest that permits be sold to sell marijuana to the drug cartels, since they have the most money and experience in marketing and distributing the product. Illegal foreign site operators should be deemed ineligible to ever be licensed or considered for a license.

Let me turn now to a significant lack of regulatory oversight. Meaningful regulation requires that all gaming facilities be open 24 hours a day, 7 days a week, 365 days a year, and allow access to the investigators. In this bill, those sites don't have to be in the United States. Therefore, it would be impossible for them to regulate.

Astonishingly, under H.R. 2267, 5 employees of the Internet gaming operation must be licensed. Vendors are not required to be licensed at all, leaving a huge loophole where operations could be penetrated by cheats and criminals. Every employee and most vendors of the Commerce Casino, no matter their position, must undergo background checks for licensing. H.R. 2267 has no requirements that all licensing certification, software, and games be protected.

The rest of my testimony has been submitted. I thank you for the opportunity to be here today.

[The prepared statement of Mr. Malkasian can be found on page 53 of the appendix.]

The CHAIRMAN. Next, Mr. Ed Williams, who is president and chief executive officer of Discovery Federal Credit Union. And he is testifying on behalf of the Credit Union National Association, CUNA.

STATEMENT OF EDWIN WILLIAMS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, DISCOVERY FEDERAL CREDIT UNION, ON BEHALF OF THE CREDIT UNION NATIONAL ASSOCIATION (CUNA)

Mr. WILLIAMS. Mr. Chairman, Ranking Member Bachus, and members of the Financial Services Committee, thank you very much for the opportunity to testify at today's hearing on behalf of the Credit Union National Association.

My name is Ed Williams, and I am president and CEO of Discovery Federal Credit Union in Reading, Pennsylvania. With total assets of approximately $130 million, Discovery Federal Credit Union serves 10,500 members in the community of Berks County, Pennsylvania.

I am also a member of CUNA's board of directors. CUNA, of course, does not condone any illegal activity. However, the Unlawful Internet Gambling Enforcement Act and its implementing regulations represent an inappropriate and unreasonable compliance burden which causes us great concern. In short, the law makes credit unions and other financial institutions liable if transactions with illegal Internet gambling providers are approved, but does not provide us with a definition of "unlawful Internet gambling," much less lists of the illegal Internet gambling providers.

Even if credit unions were not struggling to comply with an ever-increasing regulatory burden, which they are, it is unreasonable to assign the liability for policing Internet gambling activity to deposi-

tory institutions, many of which are small, without giving them the means necessary to determine which transactions are illegal. Treasury and the Federal Reserve have concluded that they cannot track who these entities are, and leave this burden to the private sector.

We are thankful that the regulatory regime promulgated by the Fed and Treasury did take steps toward reducing the burden that my credit union faces in complying with UIGEA. But it has not removed the liability that we or our service providers face if we are wrong. And we continue to be exposed to reputation risks if we block members' transactions that are legal, and ought to be approved.

UIGEA rules put the onus on depository institutions serving non-consumer account holders, to ensure that those entities are not operating in violation of UIGEA. This generally involves asking the new non-consumer credit union members about Internet gambling during the account opening process and, when necessary, obtaining a certification from the member that they are not engaging in illegal Internet gambling activity.

To ensure compliance with respect to blocking transactions, we rely on policies and procedures developed by the various payment card system operators. Transactions that receive a certain code are blocked from payment. At my credit union, the number of transactions that are blocked is no more than a handful per month. The process, unfortunately, catches some false positives: transactions which should not have been blocked, because they were not illegal Internet gambling transactions, notwithstanding the code assigned by the payment card network.

We believe that part of the solution to the compliance problem credit unions face could be the enactment of legislation like H.R. 2267, which would require Internet gambling businesses to be licensed. By registering these businesses, the legislation provides safe harbor for financial institutions to make payments to these federally registered sites without any risk of violating UIGEA. H.R. 2267 promotes regulatory simplicity, while assisting financial institutions' compliance with UIGEA.

Although H.R. 2267 is a step in the right direction, we would like to work with you, Mr. Chairman, to strengthen the bill's safe harbor provisions. Specifically, we ask Congress to direct the Departments of Treasury and Justice to develop and maintain a list of illegal Internet gambling providers and provide safe harbors to financial institutions which use both lists when determining whether a transaction should be blocked. The existence of both lists will make your bill stronger, because it will provide even more incentive for Internet gambling providers to register, and it will allow credit unions to be certain whether a transaction should be paid or blocked.

Credit unions are already burdened with heavy policing mandates and limited resources. Our compliance responsibilities under BSA and OFAC rules are extraordinary.

We do not think that UIGEA can be fairly implemented without creating a list similar to what OFAC publishes to tell financial institutions who are the bad guys. We know that the Treasury and the Fed gave significant consideration to the development and

maintenance of a list of unlawful Internet gambling providers during the UIGEA rulemaking. They concluded that such a list would not be effective or efficient. However, if the Federal Government is unable to know which entities are illegal Internet gambling businesses, how in the world are depository institutions like mine expected to know?

Mr. Chairman, your legislation takes a step in the right direction, and would add a degree of certainty to credit union compliance with UIGEA. We appreciate your tireless effort on this issue. Nevertheless, we continue to maintain that if the government decides certain gambling is illegal, and mandates that financial institutions police the illegal activity, the government should have the responsibility to produce a list of bad actors and provide safe harbors to depository institutions that use the list, including a provision mandating such a list would strengthen your legislation.

Thank you very much for the opportunity to testify at today's hearing. I am pleased to answer any questions a member of the committee may have.

[The prepared statement of Mr. Williams can be found on page 57 of the appendix.]

The CHAIRMAN. I will now recognize myself. The gentleman from California, Mr. Baca, had an opening statement, and the timing was such he wasn't able to do it. So I will now yield 2 minutes of my 5 minutes for an opening statement to the gentleman from California. That will not come out of his 5 minutes, but out of mine.

The gentleman from California is recognized for 2 minutes.

Mr. BACA. Thank you very much, Mr. Chairman, and thank you, Mr. Ranking Member, for holding this hearing. And I want to thank the witnesses for being here, as well.

This bill before us attempts to set up a Federal regulatory system of Internet gaming, where providers can obtain a license, accept wagers, and be taxed on the revenue.

However, I believe the only thing that this bill will do is to create problems for California and our recovering economy. In fact, the bill, if passed as it stands, threatens to close 22,000 jobs created in California casinos, jeopardize approximately $455 million the California State Government gains from gaming revenue, violates tribal sovereignty, and breaks compacts made with the States, growth, jobs, and revenue for offshore companies not here at home. It allows offshore companies to continue to operate in places where a strong regulatory presence is absent, almost impossible oversight.

This violates tribal sovereignty. Instead of placing these economies in severe distress, economies that already are some of the poorest in our Nation, this bill also does nothing to protect the American jobs. Brick-and-mortar casinos are a constant source of American jobs. At a time when America needs jobs, we should be building these consistent sources, not trying to tear them down.

In my home State of California, the unemployment is about 12.3 percent. Providing assistance to offshore companies won't help. It will outsource jobs, and hurt over 22,000 people employed by California casinos.

The safeguards put in place by this bill will do nothing to block fraud or prevent problem gaming. At a time when we just passed

regulatory reform to increase accountability and oversight, we are now considering a bill that does little to ensure either of these things.

The scope of gaming that is allowed under this bill will open up gaming to children. Problem gamblers will be able to have access to gaming on their laptops, iPhones, BlackBerrys, iPads, and other devices.

I urge my colleagues to vote against this bill.

The CHAIRMAN. I will take part of my remaining time to say this is an interesting coalition. We are seeing opposition to this bill consists partly of people who think gambling is terrible, and partly of people who think it's so wonderful that they don't want anybody to be able to compete with them in offering it. I think that is why Mr. Norquist and the Chamber of Commerce, believers in free enterprises—which I include myself—disagree with both aspects.

Let me say one of the great mistakes is when people say, "You're approving gambling." Look, the world ought to be divided into—in the United States, a free country—three categories: things that harm other people; things that are damaging; and things that are made illegal. Some things—a small number, which are really very helpful, and you try to encourage them—tax exemptions and other ways. And the great majority of human activity ought to be none of our business.

The gentleman from Alabama said people will make unwise choices. Anybody who looks at the members of this body are going to think that at least half of the people made unwise choices. People made unwise choices, either for us or for them. Unwise choices are part of freedom.

And so, this notion that—and the notion that it can lead to addiction, it is the death of freedom if you say that because some minority of adults will abuse something, you prohibit it. You would go after video games. There is a serious problem of video game addiction with college students. What we have is—the gentleman has that. But let me ask the gentleman—I would yield to the gentleman—some California Tribes going to be competing with that, or are they going to be okay? Because if the California Tribes are in the video game business, that might affect how the bill went through.

Mr. BACA. If it impacts our children, then it won't—

The CHAIRMAN. Children, yes. You can protect children. But this is not a protection of children. This is a ban on all activity. And that is not an effective way to protect children.

People said, "You're going to put this on the Internet." You can buy a lot of things on the Internet that I assume you wouldn't want 8- and 9- and 12-year-olds to have. There is sexual material, there is alcohol, there are other things. This notion that you protect children—first of all, the poor children are a stalking horse here. The poor children here are being used by people who don't like gambling, and I don't understand this.

In some cases, it's religious. Apparently, some people see in the Bible a prohibition against gambling, although there was apparently a footnote that exempts bingo. Some of my liberal friends don't like it because it's tacky. I have friends who are for letting people smoke marijuana and read whatever they want in terms of

literature, and do other things that I certainly wouldn't want to do but wouldn't prohibit anybody else from doing, but they draw the line at gambling, I think, because it's like kind of a cultural problem. So, let's let people do what they want.

Now, people will talk about the regulatory scheme. I would be for less regulation. I would be for letting people do what they want, but we do have these concerns raised. And we are prepared to make some of the changes that people have talked about, Ms. Malerba and others. But it fundamentally comes down to this: Do we stop adults from engaging in a particular activity, either at the request of competitors or at the request of busybodies? And I hope the answer will be "no."

The gentleman from Alabama is now recognized.

Mr. BACHUS. Thank you, Mr. Chairman. Mr. Fagan, I would like to call your attention to an article that was published in the Vancouver Sun just yesterday, and submit the story for the record. The story says the solicitor general of that Canadian province we referred to, that they are now allowing Internet gambling in Canada, and he says he's concerned about the potential for organized crime to misuse online gambling after revelations that the BC Lotteries Corporation had been fined $670,000 by a Federal agency that tracks money laundering and terrorist financing.

Now, that's a State-operated lottery, or a provincial-operated lottery in Canada. Do you have any comment on that article? He also says he's reviewing more than 1,000 violations by the online casino operations of the Federal proceeds of the Crime and Terrorist Financing Act. Particularly in light—Ms. Duke has told us that Canadian Web sites are highly regulated and safe, and that American online casinos, with proper technology, can be also.

Mr. FAGAN. Not having seen the particular article, I can't comment much about the article. But I do know that—and, again, I can't comment on material I know from grand jury information or from classified investigations—but I do know in North America, including Canada, there have been investigations that directly center on the misuse of Internet gambling sites for terrorist financing purposes, and that no amount of regulation will stop that. As I said in my testimony, the amount—limiting the number of avenues by which terrorists can move funds makes sense, from my point of view.

And this so-called freedom argument in favor of allowing this kind of Internet gambling more freely, and the comparison of the present ban to, say, liquor prohibition, just doesn't hold up. In the 1920's era liquor prohibition, the government was then taking away something people already had, which was difficult to duplicate in quality on an individual basis. A prohibition of Internet gambling, however, takes nothing away from people which they previously legitimately had. The Wire Wager Act has prohibited this kind of telephone wire-based gambling for approximately 50 years, and it supplements even older State laws.

Moreover, Internet gambling is not difficult to duplicate in quality on an individual basis, as there are plenty of outlets, formal and informal, for gambling. Ms. Duke can gamble in many places: in her home; in casinos; and in all sorts of places. She just can't do

it on the Internet, so long as the Internet is—the gambling information crosses State lines or foreign—

Mr. BACHUS. All right, let me ask you this. I would also like to submit for the record, without objection, an MSNBC story that was published, actually 2 years ago, detailing crimes that UltimateBet.com had made. This dealt with a $75 million fraud. And I know, Ms. Duke, you are affiliated with YouBet.com, is that correct?

Ms. DUKE. I am affiliated with UltimateBet.net, which is a free play site. But they do offer games—

Mr. BACHUS. Which is a—

Ms. DUKE. —on .com, yes.

Mr. BACHUS. Yes, on Ultimate—

Ms. DUKE. And it was $22 million. The site self-regulated and refunded all the money to its customers. I would prefer to have something like H.R. 2267 so that the government could oversee that regulation. I think that the customers of that site were lucky that they were playing on a site under a new management that behaved in an honest way and refunded them.

Mr. BACHUS. But—

Ms. DUKE. But the individual—and it was one individual—who perpetrated the crime and breached the software has not been prosecuted because, unfortunately, there is no jurisdiction to do so.

Mr. BACHUS. All right, let me say this. I think you're right, $22 billion is what it turned out—

Ms. DUKE. $22 million, not—

Mr. BACHUS. $22 million, I'm sorry. Now, the third—

Ms. DUKE. All of which was refunded.

Mr. BACHUS. The last thing I would like to say is there has been some testimony today that we have an organization, the Safe and Secure Internet Gambling Initiative, which will help ensure that offshore corporate interests operate these sites in a safe manner.

We went to the headquarters of that institution, and here is the headquarters. It's a UPS drop box. And what State is that in? In Washington, D.C. So this is the institute that testimony has been is going to regulate—

The CHAIRMAN. The gentleman's time has expired. The gentlewoman from California.

Ms. WATERS. Thank you very much, Mr. Chairman. I really have no questions for this panel. I came here today to listen and to learn and to welcome some of those here in the audience and on the panel from the Los Angeles area. And I am anxious to know more about the issues.

So I will yield back the balance of my time. I yield back.

The CHAIRMAN. The gentlewoman from Illinois.

Mrs. BIGGERT. Thank you, Mr. Chairman.

Ms. Duke, what is the definition of a poker player versus someone who is gaming?

Ms. DUKE. Poker is a game that is played between individuals, not against the house. It is a game of skill. It is been determined by that in pretty much every court decision. In fact, the reason why the Commerce Club exists is because California recognizes that card games, which are games of skill, are different than other types of gaming.

So things like slot machines and those kinds of activities are handled by the Indian Tribes in California. But places like the Commerce Club can exist because poker is different.

Mrs. BIGGERT. Do you think that there should be different regulations for that because of the difference in the definition?

Ms. DUKE. Games of skill are definitely treated differently legislatively. And in fact, the majority of the offshore sites that are offering poker in the United States right now have very strong legal opinions and lots of concurring opinions that they aren't actually breaking any laws because poker is a game of skill.

That being said, I personally think that adults should be able to do what they want when it doesn't cause direct harm to anybody. So I personally think that everything should be okay. But poker is definitely a different kind of game because it doesn't go under games of chance. And most of the statutes for basically a predominance of skill as part of the determination of that.

Mrs. BIGGERT. I have seen you all play out in Las Vegas, and it certainly attracts an awful lot of people. There are an awful lot of people who like the skill.

Ms. DUKE. There are a lot of fans, and the game is growing quite a bit. And it has been thriving even since the passage of UIGEA, which is one of the reasons why I think we need regulation, because it hasn't actually done anything to decrease the number of people engaging in this activity online.

In fact, the year that UIGEA passed, the main event of the World Series of Poker had about 2,000 people in it, and this year, it had 7,300 people in it. It has grown tremendously despite the fact that legislation had passed.

So I think we need to regulate it and recognize that this is something that Americans want to engage in, and it is a game of skill.

Mr. BACHUS. Would the gentlelady yield for just a comment?

Mrs. BIGGERT. Yes.

Mr. BACHUS. The reason that it hasn't done any good is because it was only implemented this last month, June, June of 2010, because the Internet gambling industry stalled it off for 2 years. And it won't do any good until we stop the payment of money. And that is why the chairman has offered his bill to stop our efforts.

Mrs. BIGGERT. Reclaiming my time, when you are competing at a table, do you play all over the world? You are in different areas, so—

Ms. DUKE. Yes.

Mrs. BIGGERT. Are you able to determine if any players were communicating or working together? Are there people who really try and defraud others at this game of skill?

Ms. DUKE. Are you talking about in brick-and-mortar or on the Internet?

Mrs. BIGGERT. No. I am talking about the brick-and-mortar.

Ms. DUKE. In the brick-and-mortar, it is extremely difficult and there is no recourse if you do suspect it because they have no way to mine the data, to look at what the transactions at that table were. So even if they did suspect that people were colluding, they wouldn't be able to do anything about it.

That is actually a place where playing on the Internet is safer because it is much easier to spot collusion because they can mine

all of the data transactions. So any hand that you have played with any individual, they can look at—when you suspect an individual, they can look at every single hand that person has played and look at who they tend to play with and those kinds of things, and then they can actually look and see exactly how much money every individual on the site lost to that individual or the consortium.

So, I know in the past, from playing for 15 years, that there have definitely been cases of cheaters being caught in casinos, and I have never seen a penny refunded to the players who were affected; whereas online, in every single case that I know of, every single penny has been refunded because they can refund it.

Mrs. BIGGERT. Do these sites check every game all the time? Is this something that is continuous?

Ms. DUKE. Yes. They have software in place that basically looks at the distributions. And this is in fact something that Ultimate Bet has implemented. So they are looking at the distributions of win/loss rates in the players.

They are also always checking the random number generation to see that the correct distribution of hands being dealt is right for what random number generation would be so that they can flag any time that something is too many standard deviations away from the mean to do an investigation. And they have different levels of alerts.

So these sites are actually in some ways more secure than playing in a brick-and-mortar casino.

Mrs. BIGGERT. Do you know how many people that takes, to look at that?

Ms. DUKE. A huge security department, and it is a big one. But a lot of it is handled by software.

The CHAIRMAN. Time has expired.

The gentleman from California, Mr. Sherman.

Mr. SHERMAN. Mr. Sherman from California. Yes.

The CHAIRMAN. I didn't say the Tribes from California. I said the gentleman.

Mr. SHERMAN. Yes. Mr. Malkasian has said that you believe that those who have been acting illegally should be prevented from getting licensed under this bill. Do you think we can have faith in those who have been operating illegally to pay their taxes and keep minors off the site, if they have had this history of violating U.S. law up until now?

Mr. MALKASIAN. Absolutely not. I don't believe that they will follow the law. Why would they?

Mr. SHERMAN. That was known as an easy question. Yes.

It has been suggested that perhaps we limit licenses to those entities that provide a majority of their jobs to people here in the United States and our U.S. entities. I don't know if any of the witnesses, and I am looking here, has looked at this from a WTO standpoint. Can we limit those who are licensed to those who are providing most of their jobs here? I will have to research that one myself.

Now, Mr. Malkasian, you have said that you could support Internet gaming, presumably, if it was limited to U.S.-based entities that have, of course, not violated U.S. law in the past. What other requirements would you want to see in the bill?

Mr. MALKASIAN. One moment, please.

If done properly, with the proper safeguards, which include: real regulation in the law stating the requirement that all operations be located in the United States; permanently barring all illegal site operators, overseas site operators, or local operators from ever being licensed; creating stiff penalties for individuals gaming on unlicensed sites and their operators; respecting States' rights; and changing the State opt-out to an opt-in provision that allows a vote of the legislature rather than a decision by the governor.

Mr. SHERMAN. Let me now go to Mr. Fagan. Do we have the technological capacity—will the sites have the technological capacity, is it reasonable for us to expect them to have the capacity, to be able to keep minors off and to not allow people to play if they happen to be sitting in a State that has opted out?

Mr. FAGAN. The short answer is "no." While we have technological abilities to attempt—

Mr. SHERMAN. Can you speak into the microphone, please?

Mr. FAGAN. And turn it on. Yes. The short answer is no. While we have the technological ability to attempt to do those things, there are work-arounds for virtually any kind of filter that exists, and particularly young people are extremely adept at getting around limitations on age, identity, and geographic limitations.

So I have no confidence that the filtering technology that exists now will—

Mr. SHERMAN. From an anti-terrorism/money laundering perspective, would we be in better shape if all of this Internet gambling was by U.S.-based entities with the money remitted to a U.S. source and a U.S. company?

Mr. FAGAN. If you could limit it that way, you might be in better shape. But we can't limit it that way, as I said. I think the amount of—

Mr. SHERMAN. You could say we could use all of the capacities of the Federal Government to block Internet gaming except on sites located here in the United States and subject to physical eyeball-to-eyeball regulation.

Mr. FAGAN. The trouble is, we haven't attempted to enforce UIGEA, for example, since it has been delayed. And we have only—and then even before UIGEA, we had tools that could fight offshore Internet gambling, but the Department of Justice and the States' attorneys general never attempted a coordinated, coherent attack on those problems.

Consequently, when we first started looking at the problem in the Eastern District of Missouri, where I was a prosecutor, a Federal prosecutor, in 1996, because Western Union had its operations center there and huge amounts of money were identified as moving through there, we tried to get help from Washington—

Mr. SHERMAN. Interrupting briefly, you just seem to be a pessimist on our ability to control this, whether we change the statute or we don't.

Mr. FAGAN. No, I am not a pessimist. I am saying we have not tried sufficiently, using the tools we have, particularly UIGEA, which is a wonderful tool, but it has been delayed. So if we give some resources or some impetus to a coalition or a task force approach to this, I am confident we can control this problem.

The CHAIRMAN. Time has expired.

The gentleman from California, Mr. Campbell.

Mr. CAMPBELL. Thank you, Mr. Chairman.

Mr. Williams, since you are at the sharp end of the enforcement of this under existing law, is it fair to summarize your testimony by saying that the enforcement of the existing law is cumbersome at best and unenforceable at worst?

Mr. WILLIAMS. I think that characterizes it very well, Congressman. Our problem with this is that we are trying to block any illegal Internet gambling charges that come through to our credit union. The problem we have is we have never been given the resources or a list to compare that against.

Mr. CAMPBELL. So from the standpoint of the financial services industry, who has to participate—that is what this committee is here about—we need to change the existing law?

Mr. WILLIAMS. Correct. We feel that if the licensing did accomplish—or did take place, that at least we could start from a list that we can compare transactions against and approve those transactions based upon these are approved by the licensing requirements.

Mr. CAMPBELL. Thank you. Ms. Duke, how many people play poker or watch the World Series of—what is the universe in the United States of poker players?

Ms. DUKE. The estimate is that 70 million people are playing.

Mr. CAMPBELL. "Seven zero million?"

Ms. DUKE. Correct. And the industry is growing; it is not going to go away. And I don't think that we should just hide our heads in the sand. UIGEA does nothing whatsoever to protect consumers. It doesn't do anything to keep minors offline. It is a banking law.

Mr. CAMPBELL. And we are talking about more things than poker. But 70 million Americans already do this and want to play—

Ms. DUKE. Seventy million Americans—

Mr. CAMPBELL. —and want to have the option to play with their friends online.

Ms. DUKE. Exactly. And I know, as a mother, I would like good government policy to support my wanting to keep my children offline, just as I expect that when they go to a liquor store, they will be carded, as an example, which is a government policy. And UIGEA does nothing for that. It is simply a banking law. It doesn't do anything to protect consumers or minors.

Mr. CAMPBELL. And when you talk about that number of people, in terms of economic growth, if we can create a legal—

Ms. DUKE. Yes.

Mr. CAMPBELL. —controlled, regulated structure for this in the United States, as Ms. Malerba and Mr. Malkasian can attest, this can be a pretty good business that could employ a lot of people.

Ms. DUKE. Yes. And actually, it will just build on top of what there already is. There was a study done by the Innovation Group that was actually commissioned by the Commerce Casino that shows that Internet gaming does not stop people from going to their local casinos, that it actually doesn't change that behavior whatsoever.

Mr. CAMPBELL. Right. In the same way movies didn't stop plays.

Ms. DUKE. Correct.

Mr. CAMPBELL. And records didn't stop concerts because of the experience that some people like—

Ms. DUKE. Correct. And I think that the World Series of Poker is a great example of that. Before Internet gaming, the main event of the World Series of Poker—so this was in 2000—had about 600 people entering, in the year 2000.

Mr. CAMPBELL. Right.

Ms. DUKE. In the year 2010, which is when this growth online has occurred, there are now 7,300 people playing the main event, which creates a huge number of jobs.

Mr. CAMPBELL. Okay. Let me cut you off just so I can get—Ms. Malerba, I heard you say that if we could—and I want you to know, from somebody who is involved in this bill, that I would be committed—that if tribal casinos could participate on an equal basis with others, then this is something that you guys can support. Is that correct?

Ms. MALERBA. We would definitely support that. We do believe that there are certain aspects of the regulation that would need to certainly be changed.

Mr. CAMPBELL. Right.

Ms. MALERBA. But we want to work with the committee to change the bill.

Mr. CAMPBELL. Right.

Ms. MALERBA. And I think you have to go to online shopping. All right? So I shop online at Ann Taylor, and I shop in Ann Taylor's stores, and I do both equally.

Mr. CAMPBELL. Right.

Ms. MALERBA. And the places that have embraced online commerce have actually grown their business. So we can hide our heads in the sand or we can embrace the industry. It is happening. I believe that it can be regulated very, very tightly. And there is much more regulation.

When somebody is gambling at a bricks-and-mortar casino, you don't know—you can't trace every transaction the way you can online because you have a document online that will trace every transaction.

You know if someone's gambling habits have changed. There is a way to prevent underage gambling. And certainly, there is a way to prevent it at a bricks-and-mortar casino. What if the dealer says, "They look like they are 21. I guess I am going to let them."

Mr. CAMPBELL. Right.

Ms. MALERBA. So you cannot regulate your way to good practices. The way—you can regulate, and you need to have strict enforcement of that regulation. But certainly, we embrace the fact that the Internet is here to say. And why wouldn't you want some worldwide funds coming into the United States? I do.

Mr. CAMPBELL. Thank you, Ms. Malerba.

Just finally, for Mr. Malkasian, I heard your list of things. I don't know about all of those. But if a bunch of those are in this bill, can you support it?

Mr. MALKASIAN. I would have to go back to the coalition and discuss it with them, personally. I feel that with the proper regulation, online gaming, limited to poker, makes sense.

Mr. CAMPBELL. Limited to poker? Who said anything about that?

Mr. MALKASIAN. I understand. That is my position. And I would just like to ask—if I may; I know it is not fair—the Innovation Group study that I commissioned, we commissioned at the Commerce Casino, didn't include any study or comments about how many employees would be won or lost in bricks-and-mortar casinos.

The CHAIRMAN. Let me just say now we are going to go vote. Are there any members who want to ask questions who have not had—

[show of hands]

The CHAIRMAN. All right. I have to go to the Rules Committee. I will ask Mr. Moore to come back and preside; we will be gone for about 15 or 20 minutes. And any other members who want to ask questions, come back. There will be just one more round.

So I would ask the witnesses to please stay. We will see if we can get you a deck of cards to keep you busy while you are here. But no money.

Ms. DUKE. I am all for that.

The CHAIRMAN. No money. Oh, no. You can't play. No pros.

Ms. DUKE. Bring a computer.

The CHAIRMAN. And we will come back, Mr. Moore, and—

Mr. BACHUS. Mr. Chairman, can we tell the witnesses that we won't reconvene till at least 4:00, I think? Would that be safe, so that they can—

The CHAIRMAN. They will just have to gamble on that.

[laughter]

[recess]

Mr. MOORE OF KANSAS. [presiding] The hearing will come to order. The Chair will next recognize himself for 5 minutes.

Last December, one of the witnesses testifying on this issue said, "After more than a decade analyzing the risks posed by unregulated Internet gambling, it may be ironic, but I have reached the conclusion that the best way to protect families and consumers in connection with cyber-gambling is by legalizing it, not outlawing it entirely."

As a district attorney for 12 years, I know that protecting people, essentially children, is a top priority for law enforcement officers. And it seems that Internet gambling, given the widespread use of technology and the Internet today, will happen whether we like it or not.

I am not a gambler. Personally, I don't care about gambling at all. But I recognize there are many responsible adults who do. And if we are able to drive this activity into the sunlight through a license regime, as the bill drafted by the chairman will do, we will be able to better track and regulate and prevent any fraudulent activity or scams.

Ms. Duke, do you share this view, or do you have different ideas?

Ms. DUKE. Yes. The quote that you are referring to is from Parry Aftab, and she definitely believes this. One of the budget issues that I have with UIGEA is that it actually doesn't provide any protection for minors or protection for the consumers at all. As I said, it is strictly a banking regulation that governs the banks.

So I would like to see more regulation, forcing these online operators to use majority verification software. Now, most of the reputable operators do do that, and they are licensed by friends of this

nation like the U.K. and France that do enforce them having majority verification software. But I would like to see my own government supporting my policies, as a mother, and giving me protections to know that my children won't be gambling online.

Mr. MOORE OF KANSAS. Thank you.

Mr. Williams, thank you for your testimony. I have heard from credit unions and community banks back in Kansas who share your view that their burdens to comply with the current Internet gambling law are excessive and unnecessary. And this comes at a time when credit unions are already trying to make loans to consumers and small business owners who need financing in order to grow and compete during these tough economic times.

Compliance with the current Internet gambling law appears to be getting in the way of that effort. On page 3 of your testimony, you say, "We believe that part of the solution to the compliance problem credit unions face could be enactment of legislation like H.R. 2267."

Could you give us an example, Mr. Williams, either at your own credit union or stories you may have heard from other credit unions, of how the current Internet gambling law is problematic in your day-to-day operations during these tough times? And then discuss how H.R. 2267 might help.

Mr. WILLIAMS. Congressman, what we see currently in my credit union specifically—

Mr. MOORE OF KANSAS. Could you pull your microphone a little closer, sir, please?

Mr. WILLIAMS. I am sorry.

Mr. MOORE OF KANSAS. That is all right.

Mr. WILLIAMS. What I see currently in my credit union—I can't really address other credit unions in our area specifically—we have a handful of transactions that come through our ACH in a daily basis. What we have tended to do is block all those transactions because we don't have an idea of what is considered legal or illegal under the law.

We chose to block all transactions at that point in time, and then from the compliance standpoint, we take an additional step by contacting every one of our members via mail to let them know why we block those transactions, in complying with the current regulation.

We feel that the enactment of H.R. 2267 could lead us to developing, or could lead the Justice Department and Treasury, hopefully, to developing a list of either legal entities or illegal entities which then, on the order of an OFAC scan, we can look at on a daily basis and compare whatever transactions are coming through online against that list that we have from Treasury or from the government, and therefore either allow those transactions, if they are legal, or stop those transactions if they are illegal.

Mr. MOORE OF KANSAS. Thank you. The Chair is finished with my questions, and I will recognize Mr. Baca for 5 minutes, sir, if you have questions.

Mr. BACA. Yes. Thank you very much, Mr. Chairman. And as I stated before, I am against this bill for a combination of different reasons. One is it opens up Internet gaming, and then the other,

the impact it has on the State of California and the amount of jobs that could be lost in the State as well.

My question is for Mr. Fagan. I want to discuss the interaction between H.R. 2267 and the Johnson Act. It is my understanding that the Johnson Act prohibits the use of gaming devices on Federal land, including Indian reservations. IGRA, however, provides an exception to this law. So long as the devices take place on Indian land, I say, take place on Indian land.

Such activities is conducted under the Tribal-State Compact, under the Tribal-State Compact, approved by the Secretary of the Interior. Because of this, I have two questions.

First, would authorization for use of the Internet for gaming proposed turn the computers into the Johnson Act device?

Second, absent the inclusion of the amendment, would it appear that Tribes would remain subject to the restriction under both IGRA and the Johnson Act and would be unable to take advantage of this law? Is that correct?

Mr. FAGAN. The second question, I don't have an answer for you. The first question, I believe if not the PC, the computer itself, the software itself would be subject to that, the Johnson Act, because the software is basically a mechanical gambling device. It moves electrons the same way that a gambling device, a slot machine, had wheels that rotated. So yes, that would be the answer.

Mr. BACA. Okay. Then Ms. Malerba, as you know, tribal government and their gaming operations cannot be taxed. Yet tax companion bill H.R. 2267 has a provision for a 2 percent tax—I want you to know, a 2 percent tax—to be paid by the operators. In the case of tribal government, this would be the first direct tax on Tribes. State that, on Tribes, the first step.

If the tax is imposed, how long is it until someone says that all tribal gaming should be federally taxed, to the point to the fact is that Internet gaming is already taxed. So all Tribe gaming, should they be taxed, then?

Ms. MALERBA. There are a couple of things. I would say, first of all, I have already recommended that H.R. 2267 be exempted from IGRA so that Tribes will not violate their tribal compacts.

In terms of taxing, I think that to say that Tribes are not taxed is a fallacy. We all have Tribal-State compacts. We all contribute to the State. We all contribute income to our States. As a matter of fact, we provide 25 percent of our slot revenues to the State of Connecticut. I would love a 2 percent tax on my slots.

So I don't see that as any different, whether it is a Tribal-State compact or paying a Federal tax.

Mr. BACA. Would you love it if it means that sovereignty is taken away from you and that you lose sovereignty, and all of a sudden—

Ms. MALERBA. I am saying, and what I have said—

Mr. BACA. No, would you like it that all of a sudden sovereignty is taken away, and now you are taxed, and you no longer have the rights on tribal land that you have and the privilege that you have at this point; and that you will be taxed and you will have to be governed, which means then that you will be playing in the same level playing field as everyone else, which means no rights, no government, no council?

Ms. MALERBA. I think you are using a very, very broad interpretation of that.

Mr. BACA. It is not broad. It is simple.

Ms. MALERBA. To do Internet gaming would be to say that we are exercising our sovereign right to participate. You don't have to participate as a Tribe.

Mr. BACA. But once you begin to be taxed and you participate, that is where the problem lies. You are now being taxed on tribal land.

Ms. MALERBA. You are exercising your sovereignty.

Mr. BACA. Which means automatically, then, that you will be open. You will be open to doing away with sovereignty at one point or another, somewhere along the lines, where everyone says, wait a minute. It is no different than a card club, any other casino, any other place.

Ms. MALERBA. So again, I would say you are exercising your sovereignty. And secondly, I understand that California wants to provide for Internet gaming only in California. So does that mean that they won't be providing any taxes to the State of California?

Mr. BACA. But in California, it is governed, and they are done through a compact and an agreement that they have, and there are revenues that are paid into the State of California. Here, revenues, we don't where they are going to go. We know they are going to be outsourced. They are going to be outside of the State. So we are also going to lose jobs, too, as well.

And this is about jobs. This is about jobs that we have. We are now losing so many jobs that have been outsourced out of this country. We need more jobs to be created right here. What this does is open an opportunity to outsource more jobs out of this area, and we should have them right here because what happens right now, those jobs are created right here.

Many people have an opportunity to put food on the table, and take care of their families. The procurement, the contracts, the philanthropy that many of these end up doing in our areas would be lost because they wouldn't have the revenue that they are gaining right now.

Mr. MOORE OF KANSAS. The gentleman's time has expired.

Ms. MALERBA. Do I have time to comment on that?

Mr. MOORE OF KANSAS. Very quickly, please.

Ms. MALERBA. I would say that in Connecticut, we have 8,000 jobs. We do not believe that participating in Internet gaming is going to endanger those jobs in any way. If anything, it will protect our—

Mr. BACA. But I disagree with her.

Ms. MALERBA. —it will protect our employees.

And in terms of sovereignty, participating in Internet gaming is not going to affect our reservation and our sovereign rights.

Mr. MOORE OF KANSAS. Thank you.

Mr. BACA. I think you had better go back and read that. I think it will.

Mr. MOORE OF KANSAS. The Chair next recognizes Ranking Member Bachus for 5 minutes of questions, if you have any, sir.

Mr. BACHUS. Mr. Fagan, you were a Federal prosecutor in Kansas City? Is that right?

Mr. FAGAN. St. Louis.

Mr. BACHUS. St. Louis? Okay. I am sorry. You have offered testimony that you believe Internet casino operators will engage in predatory behavior.

Mr. FAGAN. Yes.

Mr. BACHUS. Would you elaborate on that?

Mr. FAGAN. The example of—everyone seems to be concerned about youth.

Mr. MOORE OF KANSAS. Would you pull the microphone closer, sir?

Mr. FAGAN. Thank you. Everyone seems to be concerned about youth and young people gambling. The Internet operators in my experience—again, practical experience, I am talking about—they don't care that young people are gambling. They will take money from anybody.

But it is not just youth who will be put at risk should this bill pass. It is also persons who are alcoholics, sitting at home alone, drinking, gambling, and the person on the other end operating the Internet casino can't tell if that person is too drunk or not. A land-based casino operator can look at a guy and say, gee, you are in too deep. It is time to stop. But a person running an Internet casino can't tell that.

Likewise, the person operating the Internet casino game cannot tell if that person who is gambling on the other end is a drug user and has gotten high and is gambling away his fortune; if that person is mentally ill or not; if that person is developmentally disabled. How do we stop the developmentally disabled from losing their money, which is often government support money, through gambling?

The people could just be depressed. They could be despondent. And there is no way for an Internet casino operator to tell that about the people they are dealing with; whereas a bricks-and-mortar casino person can tell, and the responsible operators—which are most people in the commercial land-based casino industry—can tell, and they will stop people who are abusing themselves in some way and losing their money.

Mr. BACHUS. All right. Let me ask you this—

Mr. CAMPBELL. Will the gentleman yield, or are you going to use your whole—

Mr. BACHUS. No. I am going to use my whole time.

Mr. CAMPBELL. All right.

Mr. BACHUS. Is there technology which can identify youth and whether someone is a minor?

Mr. FAGAN. The technology can't identify youth. It can ask for youth to report itself and identify itself and claim that they are adults or not, and even—and then they can ask people, to somehow verify that. Send in your Social Security number or send me a copy of your birth certificate or something like that.

But anybody who has grown up in America, at some point knows somebody who got phony IDs and went out and bought liquor when they were too young to buy liquor. And the same thing will happen on the Internet. People will steal identities. They will pay people to use their identities. They will adopt other peoples' identities as favors. Irresponsible adults will allow youth to adopt identities.

And so there are plenty of ways that young people who want to gamble will get around this. And unfortunately, young people who are inexperienced are attracted by the lure of gambling.

Moreover, the young people are attuned to games. Presently, they play video and computer games for points, and they are used to winning points. Any parent who has seen their child get that glassy stare as they play World of Warcraft or Pac-Man or whatever it might be is concerned and upset by that because the child seemingly is addicted.

Add the lure of money, the promise of winning money to that, and in truth, the odds will be against them, they will lose money, and it is extremely likely that this kind of abuse and overreaching by Internet gambling operators will occur.

Mr. BACHUS. All right. I guess we call you Chief Malerba. Would you consider it, if this law allows companies like Poker Stars and what is it, Bodog.com, that have taken bets illegally in the United States today, were to get a license to provide Internet gambling services, would you feel that was a level playing field? Or are you for an exclusion for any company, or the principles of a company, who have engaged in illegal Internet gambling activity?

Ms. MALERBA. I think that all sites should be located in the United States. I think all Tribes should be operated by operators in the United States.

In terms of what has happened in the past with the Internet gaming operators, I am sure that there are Internet gaming operators offshore that are very legitimate and have been licensed by other very legitimate governments. How that plays out in this bill, I think, is something for the committee to discuss.

If somebody was licensed by a legitimate foreign country, does that exclude them from then applying for a license here?

Mr. BACHUS. That is what—my question to you is, your Tribe, have they taken a position on whether there should be an explicit ban on licenses for any companies that have operated illegally?

Ms. MALERBA. I think our Tribe is looking at what our options are. Should we be an operator ourselves? Should we partner with someone? Is there a domestic partner that we should partner with? Should there be a tribal coalition?

So I would say at this point in time, we don't have a particular stance on what that should be.

Mr. MOORE OF KANSAS. The gentleman's time has expired.

The Chair next recognizes Mr. Peters for 5 minutes.

Mr. PETERS. Thank you, Mr. Chairman.

Prior to being in Congress, a few years prior to being in Congress, I served as a State lottery commissioner, and ran the Michigan State lottery, so I have experience in gaming operations. I understand the benefits that a legal, regulated gaming operation can have. I also understand that there are significant challenges in running a legal gaming operation, particularly the responsibilities that gaming providers have to not only their players, but also society at large.

And so I am also concerned about the impact that this may have, particularly with younger players, as was mentioned. Mr. Fagan mentioned some of the challenges with younger players.

Ms. Duke, I know that this is an issue that your organization has talked about as well. And just maybe if you could give me some sense as to what prevents minors now from going online and gaming, and why do you—do you believe that there are some protections? Do you share some of Mr. Fagan's concerns? Or do you think there is a way that we can work additional protections, perhaps?

Ms. DUKE. First of all, I think that the primary source of preventing minors from going online should be the parents, just as that should be the primary source of preventing minors from drinking as well. But I would also like there to be good government policy that supports the policies that I try to enforce in my home.

Luckily, there is extremely sophisticated majority verification software available, and this is for any industry, not just online gaming, and many of the online gaming operators are already using this since they are, again, licensed by reputable countries like the U.K.

Basically, what that majority verification software does is it just makes it very difficult for a minor to get online because they have to verify their identity against public records. So this is more than just they have to send in a heating bill. They have to do that, too. They have to prove where they live. They have to send in identification. But then this software checks what they are saying against public records, which are online.

So this is very sophisticated, many levels deep, to make sure that this is who you are. It is identity verification. The government uses software like this as well, by the way. So we have to trust that we use best practices, and we use the most sophisticated software to prevent this.

And this software is extremely sophisticated, and actually much more accurate than somebody looking at somebody's ID because there are very good forged IDs, and those are much easier to come by than being able to fool mjry verification software.

Mr. PETERS. I do believe there are some additional protections that we should be using. In addition to that, are there ways that we can improve some of the legislation that is being proposed here that perhaps has not been considered by the committee?

Ms. DUKE. I think that any amendment that further promotes consumer protection and keeping minors offline I am completely all for, even to the point of Mr. Williams having a list of businesses that are okay and businesses that you can accept transactions from. I think that anything like that can be added to the bill I certainly would be all for because I think revenue is a bonus.

But the reason why we should really be concerned about this is because UIGEA doesn't provide any consumer protection whatsoever. And I would like to see a bill like H.R. 2267 come in that does provide consumer protection. The more we can do to bolster that protection, I am all for it.

Mr. PETERS. So by regulating the Internet gaming, we get additional protection, in your mind?

Ms. DUKE. Correct, because again, UIGEA is a banking law. This doesn't protect consumers. It doesn't protect minors. It doesn't—it is not a law that keeps minors offline. It is not a law that keeps problem gamblers offline. It is 1 percent of the population, but we would still like to keep them offline.

We need—people are gambling online, and they are gambling online in record numbers. So given that these companies are growing, they are licensed by other countries that are perfectly fine with it and have very good licensing and regulation systems in place, their legal opinion is that certainly in the case of poker, offering poker to North Americans is legal as well.

We know that this is happening. As a government, we should be protecting our consumers who are engaging in this activity. And the activity is not going away. So I would prefer to see very strong consumer protection in this bill.

Mr. PETERS. Mr. Chairman, I think my time has expired. I yield back.

Mr. MOORE OF KANSAS. I thank the gentleman. And the Chair next recognizes, for the last 5 minutes, Mr. Campbell.

Mr. CAMPBELL. Thank you, Mr. Chairman. And I just wanted to add some bits of information to some of what was recently said here.

Mr. Fagan, to a couple of your points, to the issue of the person who is, let's say, temporary incapacitated, using alcohol or something like that, there are technologies out there which engage in a series of questions to try and determine if the person is of mental capacity or not.

Those technologies are not, to be frank, fully developed yet to where we know they are foolproof. However, I will have an amendment that will be offered to this bill when it is marked up, presumably next week, which includes that we are going to study those with the idea that when those technologies become available, we can implement those.

There are technologies available now that were not available 2 years ago, 3 years ago, or 4 years ago, that now are available that we can utilize for various consumer protections in this bill.

You talked about problem gamblers. I think Ms. Duke made a good point that do we keep 70 million people from doing what they can because one person or less than 1 percent or 1/10 of 1 percent have a problem? No. We try and deal with that element that has a problem.

And let me tell you, one of the things that will be in the amendment that I will propose to the bill is a loss limit on a per hour, per day, that sort of thing, basis. Now, most bricks-and-mortar casinos do not have such a thing.

So therefore, we will actually be adding an additional protection for the online gambler that the bricks-and-mortar casino gambler will not have because we can, because it is very practical to do that sort of thing.

You talked about checking people for their age, and you mentioned that people have fake IDs. And yes, Mr. Fagan, this may come as a great shock to you, but around college campuses, there are people under 21 years of age who buy alcohol and consume it. I have heard that this actually occurs.

So the point is, nothing we do is foolproof. It is not foolproof in a bricks-and-mortar casino. It is not foolproof in a liquor store. And it is not going to be foolproof online. But there are technologies—alcohol is sold online today, widely, and there are technologies

available that keep minors, to the best extent we can, from buying that alcohol online. And we can employ those technologies.

And finally—well, not finally; I have one more comment—but relative to licensing, I was a car dealer before I lost my mind and went into politics. And you have to get a license to sell cars in California, and if you have done—virtually committed almost any crime out there, you can't get a license to go sell a car. I am not even talking about being the dealer. I am talking about selling a car.

So it is routinely employed in States that there are certain background checks that you have to have to have a license. And this should be no different. And so we should have background checks and ensure who is there and who is—just as you and your casinos, that some of people who run the tables or whatever have to have background checks. We can have the same sorts of things, and it doesn't need to be any different. And this is not some great technological barrier that we can't cross.

The point is that there are—the Internet moves very fast. And there are lots of protections and lots of things that are available out there today that were not available 5 years ago. And you know what? A year or two or three from now, there will be more that aren't available today.

And to Mr. Baca's comment, my colleague from California, referring to the loss of jobs in California, there are a number of things we do pretty well in California, and one of them is the Internet.

I don't think there is a whole lot of argument from my colleagues here, all of whom have fine States that do things, but that we kind of do more Internet stuff in California than any other State. And that is one of the things we haven't lost yet to Texas and a few other places, due to taxes and whatnot, but that is a different argument.

But the point is, when I look at my home State of California—and I think this is true everywhere—if we can't in California be a major part of developing some of these technologies, developing some of these sites for people, putting this stuff together, and creating a ton of jobs, not just in the industry but in the support mechanism that supports the industry, then I tell you what, we are not doing a very good job in California. And that is our problem, not the problem of this bill or this effort.

So with that, Mr. Chairman, I would yield back.

Mr. MOORE OF KANSAS. I thank the gentleman. And I want to thank the witnesses who have appeared today to testify and answer questions before our committee. I appreciate that very, very much.

The Chair notes that some members may have additional questions for this panel which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and to place their responses in the record. Again, thanks to the members, and thanks to the witnesses who have appeared today. This hearing is adjourned.

[Whereupon, at 4:53 p.m., the hearing was adjourned.]

A P P E N D I X

July 21, 2010

Statement of Congressman Ron Paul
House Committee on Financial Services
Hearing on HR 2267: the Internet Gambling Regulation, Consumer Protection, and Enforcement Act

Thank you Mr. Chairman for holding this hearing on HR 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act. While it is out of character for me, to say the least, to support a bill that regulates private transactions, I support HR 2267 because it repeals the ban on Internet gambling. The bill does not create any new federal laws; it merely establishes a process to ensure that gambling sites can comply with existing laws, and thus offer their services to adults who wish to gamble online.

The ban on Internet gambling infringes upon two freedoms that are important to many Americans: the ability to do with their money as they see fit, and the freedom from government interference with the Internet.

The proper role of the federal government is not that of a nanny, protecting citizens from any and every potential negative consequence of their actions. Although I personally believe gambling to be a dumb waste of money, American citizens should be just as free to spend their money playing online poker as they should be able to buy a used car, enter into a mortgage, or invest in a hedge fund. Risk is inherent in any economic activity, and it is not for the government to determine which risky behaviors Americans may or may not engage in.

The Internet is a powerful tool, and any censorship of Internet activity sets a dangerous precedent. Many Americans rely on the Internet for activities as varied as watching basketball games, keeping up on international news broadcasts, or buying food and clothing. In the last few years we have seen ominous signs of the federal government's desire to control the Internet. The ostensible reasons are to protect Americans from sex offenders, terrorists, and the evils of gambling, but once the door is open to government intrusion, there is no telling what legitimate activity, especially political activity, might fall afoul of government authorities.

The ban on Internet gambling also forces financial institutions to act as law enforcement officers. This is another pernicious trend that has accelerated in the aftermath of the Patriot Act, the deputization of private businesses to perform intrusive enforcement and surveillance functions that the federal government is unwilling to perform on its own.

Mr. Chairman, while I am willing to support HR 2267 as a means to repeal the total ban on internet gambling, I urge my colleagues to oppose any attempt to tax internet gambling. Taxing any commercial transition, including gambling, is an unwarranted expansion of the taxing power and will cripple the development of internet commerce. Furthermore, since the power to tax is the power to destroy, imposing taxes on internet gambling could simply morph into a backdoor way of banning gambling on the internet. If opponents of the internet gambling ban are serious about expanding individual liberty, they will oppose restricting the freedom of internet users to do what they want with their time and property by imposing taxes on the bill.

In conclusion, I urge my colleagues to support Chairman Frank's HR 2267. While not perfect these bills will take a step toward liberty by restoring the right of Americans to decide for them whether or not to gamble online.

www.theppa.org

TESTIMONY OF ANNIE DUKE

on behalf of

THE POKER PLAYERS ALLIANCE

HOUSE COMMITTEE ON FINANCIAL SERVICES

"H.R. 2267, Internet Gambling Regulation, Consumer Protection, and Enforcement Act"

July 21, 2010

Chairman Frank, Ranking Member Bachus, and Members of the Committee, I would like to thank you for this opportunity to testify regarding H.R. 2267, the Internet Gambling Regulation, Consumer Protection and Enforcement Act. My name is Annie Duke, and I am a professional poker player. In fact, I have just returned from the World Series of Poker in Las Vegas, which is now the third most watched sporting event in the world. This year's World Series of Poker experienced a 20 percent increase in participants from 2009 – much of this growth is driven by the popularity of Internet poker here in the U.S. and across the globe.

I am here today to testify on behalf of the Poker Players Alliance, a grassroots organization of 1.2 million people who play poker in their homes, in card rooms and casinos, at bars, and charitable events, and on the Internet. To be sure, the organization was founded in response to efforts to prohibit poker playing on the Internet, but, our organization believes that the medium is irrelevant; our focus is the game.

As a professional poker player, I am aware of the rich tradition this great American game has in Washington politics. Ulysses S. Grant was the first president known to have played poker, a game he learned in the army, and he was by no means the last. Warren Harding played twice a week. Teddy and Franklin Roosevelt, Dwight Eisenhower and LBJ were skilled players. Richard Nixon used his poker winnings from his navy days to finance his first campaign for Congress. Harry Truman's signature phrase, "the buck stops here" is a poker expression he learned playing the game. Today, such Washington leaders as President Obama and Justice Scalia continue that tradition. These leaders and millions of everyday Americans play for recreation and relaxation, for intellectual challenge and stimulation, for fun and profit.

But at stake in this debate is a far more important tradition for our country and its government. At its most basic level, the issue before this committee is personal freedom -- the right of individual Americans to do what they want in the privacy of their homes without the intrusion of the government. From the writings of John Locke and John Stuart Mill, through their application by Jefferson and Madison, this country was among the first to embrace the idea that there should be distinct limits on the ability of the government to control or direct the private affairs of its citizens. More than any other value, America is supposed to be about freedom. Except where one's actions directly and necessarily harm other people's life, liberty or property, government is supposed to leave the citizenry alone in this country. In fact it was Ronald Reagan who once said "I believe in a government that protects us from each other… I do not believe in a government that protects us from ourselves."

To be sure, there are many who believe that gaming is immoral or unproductive. I don't share these beliefs, but I do respect their right to hold those beliefs. What is harder to respect is the idea that, because someone disapproves of a particular activity, they would seek to have the government prevent others from engaging in it.

I believe that many of those who seek to prohibit Internet gaming and Internet poker are motivated by good intentions; to protect the roughly 1% of people who are subject to pathological gambling, and to prevent minor children from gambling online. I, for one, do not agree that it is appropriate to circumscribe the activities of all adults to protect against the

weaknesses of a few; this was governing principle behind alcohol prohibition and it failed miserably.

But the good news is that public policy need not decide between respecting individual freedoms and protecting vulnerable populations in the context of Internet Poker. Both of these goals are best served by appropriate licensing and regulation, and this is exactly what H.R. 2267 proposes. To be clear, H.R. 2267 is not a bill that expands Internet gambling in America. It simply provides the appropriate government safeguards to an industry that currently exists and continues to grow.

As you are probably aware, on June 1st the regulations issued pursuant to the Unlawful Internet Gambling Enforcement Act took effect. You may also know that they have had very little effect on the Internet gaming market. Today, any American with a broadband connection and a checking account can engage in any form of Internet gambling from any state. As others will testify, the UIGEA regulations have forced U.S. financial institutions to implement costly and burdensome compliance programs to almost no effect.

American poker players are not content with a system where they are limited to play on offshore sites regulated by foreign governments. They want to play on sites licensed in the United States, which will provide even greater consumer protections for the player and yield badly-needed tax revenue for state and federal governments.

Under a U.S.-regulated system, an authorized licensee would be required to have technologies in place to prevent minors from playing; identify and restrict problem gamblers, and keep people from opt-out states from playing online. Further, regulation would eliminate any concerns about money laundering. Through regulation, a licensed site would be required to adopt the same stringent and effective anti-money laundering measures as banks have in place today.

As a mother of four, I am acutely aware of the need to protect children on the Internet. Those of you who attended the last Committee hearing on this topic heard Parry Aftab from "Wired Safety" -- the foremost advocacy group for child safety online -- testify that the surest way to protect children in the context of Internet gambling is to bring the industry on-shore and regulate it. It is plainly clear, if you want to protect children, then regulation is the best solution; if you oppose gambling and want to treat adults like children, then you will resort to a misguided prohibition.

For me, the most critical component of regulation is player protections. As some of you know, I play at a site called Ultimate Bet. Under previous management, an associate of the website developed a breach in the software that allowed for players to be cheated out of a great deal of money. I agreed to continue to endorse the site only after I was sure that new management had addressed the problems, took voluntary steps to refund the cheated players and ensured tighter control over their site security. Nonetheless, an important benefit of regulation would be to ensure, through source code-based testing and outcome-based testing, that the games are fair and those players cannot be defrauded by the sites and that players cannot cheat others at the table. Further, under a U.S. regulated system players would have legal recourse should they feel they are harmed and regulators would be able to penalize licensed companies that breach the

regulatory standards. Today, the best non-U.S. licensing regimes already do this, but, U.S. players deserve the protections and assurances of their own government.

Interestingly, the current law provides no consumer protection whatsoever. The UIGEA does not keep a single child off an internet gaming site, nor does it provide any protections for problem gamblers or mechanisms to prevent fraud and abuse – it only regulates the banks, not those who operate the games. It is quite candidly a law that appears to be more about burying government's head in the sand than it is about government providing its citizenry with sensible public policy. H.R. 2267 corrects this untenable posture and puts us in the greatest position to protect consumers and vulnerable populations.

Mr. Chairman, I would like to close with the point I started with: this issue is about personal liberty and personal responsibility -- the freedom to do what you want in the privacy of your own home. I suspect that some on this committee support freedom, except where individuals would use that freedom to make what they believe to be bad choices. "Freedom to make good choices" is an Orwellian term for tyranny-- the governments of China, Cuba and Iran all support the freedom of their citizens to make choices that their governments perceive as good. For those whose religious or moral beliefs hold gaming as abhorrent, I fully support their right to live by those beliefs. I support their right to choose to not gamble. What I do not support, and what this Committee and this Congress should not tolerate, are laws that seek to prevent responsible adults from playing a game we find stimulating, challenging and entertaining. H.R. 2267 provides this freedom in a safe and regulated environment and I urge everyone on this Committee to support this common sense policy. However you might feel about gambling on the Internet, I would suggest that gambling with freedom is far more risky.

Again, Mr. Chairman and members of the Committee, I thank you for the opportunity to address you today. I look forward to the testimony of my fellow panelists and the opportunity to engage with you during the question and answer period.

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Consultant on domestic and transnational criminal law, trial practice, anti-money laundering, counterterrorism, intelligence, corporate compliance, and emergency planning issues/strategies

July 21, 2010, Written Testimony of Michael K. Fagan

To the Honorable Barney Frank, Chairman, U.S. House Financial Services Committee, and the Honorable Members and staff of the Committee:

As a private citizen having probably-unique and specialized experience, background, and training concerning the issues raised by Internet gambling, I am pleased to submit testimony in this Committee's hearing entitled "H.R. 2267, Internet Gambling Regulation, Consumer Protection, and Enforcement Act." The Committee's time constraints may limit the details I might otherwise be able to provide on this issue; however, via the contact information on the letterhead of this document I remain available to the Committee for further consultation and/or expansion of these remarks.

By way of my background, I have attached at the end of this document a "biographic blurb" which at times has been used when I have given speeches or conducted training. In sum, I served my state and nation for approximately thirty years as a prosecutor of felons, including money-launderers and racketeers, with the greatest portion (25 years) of that time being an Assistant U.S. Attorney for the Eastern District of Missouri. Post-9/11, I was selected to head our District's anti-terrorism efforts and did so for six-and-a-half years, learning about and overseeing investigations concerning terrorist financing methods. Presently, I do consulting/advisory work for, and train, governmental bodies and corporations on a wide variety of topics, as described on my letterhead, above. I am neither a Democrat nor a Republican, but an apolitical independent (with a small "i").

As the career federal prosecutor once responsible, with surely-more-talented others, for the most, and the most successful, enterprise-based prosecutions and forfeitures of illegal unregulated commercial Internet gambling enterprises, their operators, and their facilitators, I have thought long and hard about the costs and benefits associated with Internet gambling. As I would sometimes tell cooperating criminal-witnesses in such investigations, I would have prosecuted people for failing to gamble, if the law required people to wager; thus, my chief interest in the topic was (and is) not based on some religious, moral, or philosophical attitude against gambling but, instead, on compliance with law. I do not disregard such attitudes, of course, just as I do not disregard the attitudes that argue in favor of legalization, regulation, and taxation of Internet gambling. Instead, I weigh those attitudes and the supporting evidence in order to arrive at a sound policy position. In sum, (1) having familiarity with the polar extremes (and the in-betweens) of attitudes on this issue, (2) having "inside" and lengthy experience with Internet gambling as it been practiced in the U.S. and elsewhere for the past

approximately-fifteen years, and (3) no longer having to limit myself to advocating for the Department of Justice's views, I am absolutely convinced that any action, however well-intentioned, by this Committee or by Congress, which would enable the expansion of Internet gambling in the United States will prove **far** more costly than maintaining the status quo. Moreover, it would be irresponsible to take any steps toward expanding the availability of Internet gambling—i.e., giving up on controlling the problem-- in the United States before first directing and funding the Department of Justice and/or the states' Attorneys General to enable a coordinated, systematic approach to enforcing existing laws prohibiting and taxing such conduct.

My office and I advocated for a task force-type coordinated approach back in 1996-97, when these illegal offshore gambling enterprises first made their business appearance, via the Internet, in our citizen's homes and offices. Unfortunately, and contrary to our written suggestion, the then-management of the Department of Justice adopted a policy of letting these cases "percolate up from the field," rather than to address the issue comprehensively. This unfocused approach, in my view, contributed to the rapid growth in the number of offshore, U.S.-facing Internet gambling enterprises from approximately forty (at the time we urged creation of a task force) to, eventually, over two-thousand. Law enforcement and taxing authorities have yet to recover from the failure to adequately address the problem, which failure is all the more puzzling when, in my experience, these investigations easily "pay for themselves," in the sense that the recoveries available via fines, forfeitures, and back taxes (particularly with available interest and penalties) **far** exceed the costs of investigation, prosecution, and incarceration.

In my experience, these criminal gambling enterprises were frequently operated by and staffed with "corners-cutters" and sharp operators who, if they were not already associated with organized crime groups, were prone to mimic them, assist them, and/or adopt their ways. Many, of course, were charming or bright-enough characters—referring to them as "Runyon-esqe" is, perhaps, a nice way to paper over these characters' lack of character—but, the deeper an investigation would go into these operations, we could count upon finding additional criminality or, at least, the unpleasant scent of corruption, misconduct, and predatory behavior. Clichéd-behavior from old gangland movies came to life, as we came across or learned of outright fraud, threats and "leg-breaker" tactics, loan-sharking, point-shaving, and cash payments to college athletes or their family members to steer athletes to certain agents/programs, not to mention instances of more modern day criminality like illegal drug use/distribution, operation of illegal online pharmacies, extremely-sophisticated money-laundering and tax evasion, and terrorist financing opportunities. Commercial Internet gambling creates huge pools of capital, which effectively serve as wholly unregulated banks, inviting and facilitating money laundering and terrorist financing. These negatives I've listed do not include the significant social costs imposed by commercial gambling (legalized or otherwise—and I will let others address these social costs), but in my view the listed negatives, alone, outweigh the supposed "plusses" of gambling: the entertainment-value, or fun, of gambling made extraordinarily-convenient via the Internet, added to the necessarily limited and usually-remote chance of financial gain to the players, and the possible financial gain to the government via taxation (offset, of course, by the costs of regulation,

administration, and enforcement, and by lost taxes from other forms of entertainment and by product and service sales hurt by gambling, and limited by the "black market" gambling operations that will surely exist outside the regulatory framework—and which will thrive because of it). The claim that perhaps $43 billion dollars in new tax revenues will result in 10 years' time from legalizing and taxing this conduct rests upon assumptions both unsustainable and without basis in fact. States and tribes *will* opt out of a legalization regime, both because the conduct is unwelcome and corrosive and because it is certain to cost far more jobs—skilled and otherwise--in the "bricks-and-mortar" casino industry than online gambling creates. In that sense, H.R. 2267 promises buyer's remorse. (Relatedly, this nation has plenty to be remorseful about given its history of mistreatment of Native Americans, and to legalize of Internet gambling--which will undercut the jobs and income presently available to Native Americans in the licensed, well-regulated real-world casinos they have built, invested in, and operated—simply constitutes rubbing salt in centuries-old wounds.)

This is all the moreso because the bill under consideration does not require every aspect of an Internet gambling enterprise to be located, physically, within the United States. How can one reasonably assert that every non-U.S.-based aspect of such enterprises will be subject to effective federal regulation? How naïve to treat gambling like an industry where global outsourcing may be appropriate, given the well-established historical risks of corruption, dishonesty, and fraud attendant to commercial gambling. Neither does the bill mandate adequate initial and on-going background checks and certifications for all gambling enterprise employees nor of the gambling equipment/software /suppliers they utilize. The "let's-legalize-this-now-and-worry-about-integrity-later" aura that surrounds this bill may have been unintended, but it could not be more plain. The aura may be attributable to the moneyed interests supporting the bill, since the much of that lobbying money likely comes from recent or ongoing multiple violations, by foreign companies (often controlled by U.S. persons), of existing federal law prohibiting online wagering. Legalizing Internet gambling without barring those who have made millions from purposeful and long-term disregard of federal and state laws simply rewards organized crime—yet another shortcoming of the proposed enactment.

Of course, one can argue that the negatives I've listed would disappear or diminish with legalization, regulation, and taxation. People engage in fairy-land arguments and wishful thinking like this with respect to a multitude of what are commonly called vices, whether advocating for increased opportunities for gambling or for narcotics use or prostitution, for business monopolies, unlimited political cash contributions, or any of a host of behaviors proven, by historical experience, prone to large-scale misuse and unmanageable by regulation at a reasonable cost. Internet gambling falls squarely within these latter categories. Further, H.R. 2267 provides little hope for effective regulation: it's simply a bad bet to leave regulatory rule-making up to unelected Treasury Department officials who, unlike state authorities, have little or no experience in gambling regulation and who will be prone to the undue influence attempts that invariably accompany commercial gambling. Moreover, continued prohibition of Internet gambling hardly impinges on anyone's freedom, as a practical matter, since the underlying conduct (gambling) remains highly available to individuals in more socially-

acceptable, safer contexts (such as card games and bets made with family or friends, in office "pools," in regulated charitable settings, and via local or state-regulated casinos/lotteries). There is no shortage of opportunity for those in the U.S. who wish to recreationally gamble to do so, and to do so without the added costs imposed by the bookmaker/"house"/middleman necessarily present in Internet gambling enterprises.

Among these costs, apart from the "vigorish," is that the gambling operator has every incentive to promote increased and unthinking gambling activity by consumers. History and recent exposes show that these incentives quickly lead to predatory behavior by the operator—including, e.g., undisclosed odds manipulation and crass exploitation of electronic slot machine users; development by gambling software marketers of artificial intelligence to fool online poker-players into thinking they are competing with humans when, in fact, they are playing against computers controlling the outcome; so-called poker "education" websites fronting for and/or linking to illegal offshore gambling enterprises; tout services selling fraudulent supposedly-"inside" information and steering callers to certain sportsbooks without disclosure of financial inter-relationships; gambling operators setting up phony "independent" trade associations to act as supposed "watchdogs" or dispute-resolution services; and bribery abroad of supposed regulators or government leaders. Gambling software developers promise to create games available over the Internet that will match the crack-like addictive dopamine-stimulating modern slot machines – and any parent who's puzzled or despaired over their child's trance-like playing of video games during the past twenty years can readily see why Internet gambling operators are drooling over the chance to legally expand their market-base into the United States. Moreover, the conversion of existing points-based computer games into wagering-based games merely awaits enactment of H.R. 2267. Online gambling will go fast and far beyond poker.

At least responsible bricks-and-mortar casino operators can look a gambler in the eye and make the human assessment of whether he's too drunk, mentally unhinged, despondent and desperate, developmentally disabled, or otherwise at a point at which it's simply unfair to take advantage of him any longer. Internet gambling operators not only *cannot* assess these characteristics among their clientele, in my experience *they don't care to*, preferring to prey on the weak and the strong equally. These, and more, indicia of the raw institutional greed intertwined with Internet gambling made unsurprising appearances in the many investigations and prosecutions with which I have personal experience. It seems cruel, in a nation with as many alcoholics and chemical-dependant persons as ours, to put them—and everyone else--at further risk of ruin by enabling them to gamble away their financial security at their home, office, library, and coffee-shop computers—and, now, through their hand-held devices: suddenly, "smart phones" don't seem so very smart when you've lost your family's grocery money on one. Problem and pathological gamblers affect far more than just themselves; they create networks of misery.

Moreover, a government that becomes dependent, even in a small way, upon tax revenue from gambling activities soon becomes prone to encourage gambling. As I noted above, I am agnostic about gambling, but I am also realistic enough to recognize that if my government is going to systematically encourage a behavior, it ought to be a behavior

that is more productive and less prone to exploitation. Further, in the United States the acceptability, or not, of commercial gambling has always been a local issue. Ignoring or carelessly jettisoning history seldom promises success. No persuasive policy reason suggests itself which would warrant the federal government taking this historical freedom-to-decide from local citizens. Experience proves that, once authorized on a national scale, Internet gambling operators would advertise and market their businesses to such an extent that no one in the United States would be immune from their messages. These messages, of course, would be calculated and likely to make long-term changes in Americans' behavior. Already, we are subjected to such messages in much of the country regarding existing legal gambling; indeed, we have allowed such without any prior study of how both the messages and the gambling are, for example, changing Americans' attitudes and productivity. To allow legalization of Internet gambling to geometrically increase both those messages and the opportunities to gamble, without a reliable, comprehensive prior study of their societal impact, fairly can be called irresponsible. Indeed, as a nation, we require an environmental impact statement for far less sweeping changes.

I am not advocating an impact study, however, for to me the reasonably-likely unhealthy impact of legalizing Internet gambling is clear, based on what I have witnessed in multiple cases and on over a decade of study. Moreover, to the extent that committee members or Congress might try, experimentally, to limit eventual legalization, regulation, and taxing of online gambling to, say, poker and non-sports gambling, and claim that these are different from and less problematic than electronic gambling machines, legislators will only be fooling themselves. Refinement of poker, blackjack, other card games, roulette, non-sports and sports gambling on computer terminals essentially has or will make these avenues of "entertainment" every bit as addictive, manipulative, and harmful as modern electronic slot machines.

You may be familiar with "When Pride Still Mattered," a fine biography by David Maraniss of the great N.F.L. coach Vince Lombardi. I focus here on the title of the book, hoping that, to this Committee, **pride still matters**. Indeed, the very opposite of pride would attach to any action by this Committee (or by Congress) which would encourage those gambling operators frothing at the mouth to gain increased and legitimized access to Americans' home and workplace computers, and thereby to Americans' savings, retirement funds, paychecks, grocery/utility/house payment/rent money, and to Americans' children, teenagers, pensioners, and the desperate. Advocates of legalized online gambling do not propose to build their businesses upon the occasional friendly bet. The industry runs on repeat business, aiming to extract the maximum "take" from bettors and replacing the tapped-out bettor with "new meat." The industry engages in sophisticated and expensive marketing efforts in support of these goals. The bill sets no loss limits or wagering standards; for example, it permits gamblers to play with illegal drug proceeds or to "lay-off" bets they take in operating their own illegal, unlicensed gambling enterprises. Non-gambling businesses, of course, also may engage in research-based and emotion-driven marketing and usually also seek to maximize profit, of course; but these non-gambling businesses usually produce a product or service having objective

value and do so without a business plan incorporating *sub rosa* deceit, predatory behavior, and criminality. The same cannot be said of Internet gambling operators.

As a nation, we have not even fairly tested the UIGEA and its too-long-delayed regulations. As a nation, we have not even attempted a sensible multi-specialty task force or coordinated approach to the problem of enforcement of laws existing before the enactment of the UIGEA. The *ad hoc* successes in a single federal judicial district (mine) of federal prosecutions like the BetonSports case and the Paradise Casino case and of federal forfeitures in the tens of millions of dollars from "vital service providers" to Internet gambling operations, strongly suggest that a coordinated, programmatic approach to the problem, especially now that the UIGEA tools are about to become more fully applicable, will succeed without disturbing anyone's legitimate freedoms. If the Committee feels it must take some action, I would urge that it explore means of adequately-funding or demanding that the Department of Justice and/or the states' Attorneys General establish such a task force, rather than continue the *ad hoc* approach of years gone by.

Local control over what vices will and will not be permitted in a community remains the essence of American government. Any federal legislation authorizing what will prove to be an unchecked spread and promotion of Internet gambling corrodes local values and undermines trust in national government. It will further diminish the evaporating reservoir of respect accorded elected officials. In a fundamental sense, your efforts as legislators are about whether, in a global economy, The People retain the authority in their communities to decide for themselves what activities and vices will be permitted. I urge you to not surrender that authority to the powerful syndicates and corporate interests presently spending millions on lobbyists seeking to delay implementation of UIGEA regulations, to repeal or gut the UIGEA, and with false and short-sighted appeals seeking legalization of Internet gambling in the U.S., whatever the costs. No tax you can pass will offset those costs.

I appreciate your consideration of my testimony.

"Biographic Blurb" attached to July 21, 2010,
Written Testimony of Michael K. Fagan

Michael Fagan served as an Assistant U.S. Attorney (AUSA) for the Eastern District of Missouri for twenty-five years, until February 2008, and now consults on domestic and transnational criminal law and procedure, anti-money laundering, counterterrorism, intelligence, and emergency planning issues. Selected as Coordinator of the Anti-Terrorism Advisory Council in 2001, Mike governed regional counterterror efforts in that role for over six years, and continues today as a Special Advisor to the Missouri Office of Homeland Security, as well as a member of the St. Louis Regional Response System Advisory Board.

The Department of Justice conferred on Mike the National Exceptional Service Award and the EOUSA Director's Award. Then-U.S. Attorney General Michael B. Mukasey recently noted Mike's "aggressive and creative prosecution of deserving defendants," citing as examples Mike's victories in the longest criminal trial in the history of the Eastern District of Missouri and crippling of the multi-billion dollar illegal offshore Internet gambling industry. The Chief of the Defense Intelligence Agency's USTRANSCOM Forward Element observed that Mike's "understanding of complex terrorist threats is second to none," enabling him to "powerfully contribute to the nation's security...." The Chief of the Justice Department's Organized Crime and Racketeering Section stated "Mike has single-handedly dealt a major blow to the illegal business of Internet gambling, making a difference in the lives of United States citizens throughout the country." The Director of the Executive Office for United States Attorneys praised Mike's "tenacity and creativity in identifying and developing new cases of an increasingly complex nature...." Former federal judge and CIA and FBI Director William Webster remarked that a May 2008 terrorism intelligence presentation by Mike at a conference held at Washington University in St. Louis was "the best of its kind that [Judge Webster] had ever seen." In addition to decades of gaining convictions in highly-sensitive and complex cases, Mike was the architect of proceedings resulting in approximately $150 million in forfeiture and tax judgments in favor of the United States.

During his twenty-five year tenure as an AUSA, Mike served as a Special Attorney to the United States Attorney General from 1995 to 1997. He also served for three years as the Regional Coordinator for the Organized Crime Drug Enforcement Task Force. Mike taught at the National Advocacy College, as well as lectured at international, law school, corporate, law enforcement, and college training sessions. Prior to joining the Department of Justice in 1983, he spent a year as a litigator at Bryan, Cave, McPheeters, and McRoberts (now Bryan Cave LLC), in St. Louis. Mike began his law career as an Assistant Circuit Attorney for the City of St. Louis, after graduating from Washington University School of Law in 1977. He played college football at Southern Illinois University at Carbondale, from which he graduated with honors in 1974.

July 21, 2010

Testimony of Tribal Chairwoman Lynn Malerba
Mohegan Tribe of Connecticut

Good afternoon Chairman Frank, Ranking Member Bachus, and Members of the Committee. My name is Lynn Malerba, and I am the Chairwoman of the Mohegan Tribe. It is a great honor to be with you here today to present testimony on H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act.

Mr. Chairman, the Mohegan Tribe has a long and proud history going back many thousands of years. During the 1600s, one of our greatest leaders, Sachem Uncas, was confronted by the challenges of protecting our tribe's sovereignty, traditions, and people in the face of European colonization, disease, and new technologies previously unknown to our people. The decision he would make in how to deal with these challenges was of vital importance to our future.

Sachem Uncas chose the path of cooperation, rather than conflict in the face of these challenges. This path served him and our people well, and started a tradition known as 'The Mohegan Way'. This tradition has been passed down through the generations by our ancestors to the present day, where our people continue to live and work cooperatively both within the Tribe and the non-Indian community.

The technology of Internet gaming presents both an opportunity and a challenge to tribes engaged in gaming – similar in some ways to the rapid changes Sachem Uncas once faced in his world long ago. Chairman Frank, we at the Mohegan Tribe are grateful that since the day you introduced H.R. 2267, you have shown your great respect for tribal sovereignty by actively seeking the input of tribes in your legislation to ensure that we are treated fairly. In doing so, you have shown your desire for cooperation, rather than conflict, and we sincerely thank you for this stance.

As you know, Indian gaming has been the biggest single economic development success story in tribal history. Since the enactment of the Indian Gaming Regulatory Act of 1988, tribes have opened 419 gaming facilities across 28 states, creating over a half a million new jobs. These tribal casinos are currently generating nearly $27 billion in much-needed revenue, which is used to fund urgent tribal priorities such as housing, health care for our elders, and education for our youth. I would also add that tribes nationwide also share a significant portion of the revenue they earn from gaming with state and local governments, helping them meet the needs of their residents as well.

I am proud that the Mohegan Tribe has been part of the success story of Indian gaming. Our tribal government runs one of the largest and most successful tribal casinos in the United States. Our

THE MOHEGAN TRIBE

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extensive experience in regulating gaming activities, protecting consumers, and exercising our sovereign rights as a tribal nation gives us unique insights into the impacts of H.R. 2267 on tribal gaming.

In response to your request for input from Indian Country on HR 2276, a coalition of tribes, including the Mississippi Band of Choctaw, the Barona Band of Mission Indians from California, the Mohegan Tribe, and all the member tribes of the California Tribal Business Alliance, which include the Lytton Band of Pomo Indians, the Pala Band of Mission Indians, the Paskenta Band of Nomlaki Indians and the Viejas Band of Kumeyaay Indians, have come together to present ideas and work with you and your staff on this legislation. The Mohegan Tribe and our coalition partners agree with your vision that regulating Internet gaming can work if done properly.

As you may know, not all tribes nationwide agree on all the issues surrounding Internet gaming, and many are still forming their opinions on the topic. The National Indian Gaming Association and the United South and East Tribes are currently undertaking a comprehensive study of the issues involved.

However, I believe there would be universal agreement among all tribes that if Internet gaming were to be permitted, Indian tribes must have the ability to participate on a level playing field with other gaming interests, and the gains that we have made as tribal nations under IGRA must not be endangered.

After extensive analysis of H.R. 2267, we believe that in general, the legislation is on the right path. However, it is our opinion that the bill can be further enhanced from its current form. **The most important improvement from our perspective is a provision that makes it clear that Tribal Governments and Tribal Gaming Facilities should be clearly authorized to operate Internet gaming sites.** The licensing standards should be modified to ensure application to a tribal government or its designated tribal agency or entity operating the site.

The following are our suggestions for additional improvements:

- **Limitations under the Indian Gaming Regulatory Act (IGRA) on acceptance of wagers by tribes.** Under IGRA, tribal government gaming operations are only allowed to accept wagers which are placed by individuals who are physically located on Tribal lands at the time the wager is placed. In the area of Internet gaming, this is problematic as tribes would desire to operate their Internet gaming sites on the reservation, as a function of the tribal government gaming operation, but accept bets from any state or other jurisdiction in the United States that has not opted out of the federal regulatory framework. In order to do so, there would have to be a change to H.R. 2267 which makes it clear that tribes will not be subject to the Indian Gaming Regulatory Act to the extent they are conducting Internet gaming under federal licenses pursuant to H.R. 2267. Without such a change, tribes would face two bad choices – either they would not be able to accept wagers

from the vast majority of Americans who do not live on reservations, placing them at an extreme and unfair competitive disadvantage with other gaming entities, or they would have to set up their operations somewhere off of the reservation, subject to state laws and taxation. Being restricted to operating under state laws is a situation that virtually all tribes would reject as a violation of the sovereign rights of a tribal government, as it runs counter to long-established legal doctrines of tribal sovereignty and would place them inappropriately in a subordinate position to state government. It would also negate many of the internal controls, safeguards, and experienced regulatory systems that tribes have developed to regulate gaming under IGRA and state gaming compacts if Internet gaming operations must be moved off of Indian lands. Many states simply do not have the experience in regulating gaming and also testing and certifying of equipment which Indian gaming tribes have developed. The position of our coalition of tribes is that this change would be absolutely critical in order to gain widespread tribal support for H.R. 2267 to clarify that tribes may conduct internet gaming under federal license on or off- reservation notwithstanding any provision of IGRA to the contrary.

- **Extend the exclusion from IGRA to Tribal-State Gaming Compacts Pursuant to IGRA.** As you are aware, IGRA requires that tribes and states must enter into a compact if any type of Class III gaming (house-banked games) are to be offered by the tribe. These compacts usually require the tribe to share revenue from Class III activities with the state. H.R. 2267 would allow a very broad range of Class III games to be offered online by tribal and non-tribal gaming operators, while most tribal-state compacts currently allow only selected Class III games to be offered by tribes. In some states, existing compacts actually preclude tribes from offering any form of Internet gaming whatsoever. A provision needs to be added to H.R. 2267 that clarifies that all games offered under its auspices are exempt from IGRA compacting or revenue sharing provisions, allowing tribes to compete on a level playing field with non-tribal competitors and pay the same federal tax. Adding this measure would ensure that no conflicts would occur between states and tribes under existing compacts, and that these compacts would not need to be re-negotiated or amended, which could be costly and disadvantageous to existing tribal brick-and-mortar gaming operations. Without such a measure, support for H.R. 2267 in Indian Country would evaporate.

- **The Tribal Nations respectfully request meaningful consultation before this statute is enacted on how best to regulate Internet gaming.** For over twenty years, the system of tribal gaming regulation has worked exceedingly well. The Mohegan Tribe and its coalition partners are nationally renowned, as are many other tribes, for our strong and successful gaming regulatory programs. We have direct experience in enforcing the license suitability standards which are outlined in H.R. 2267. We would respectfully suggest that H.R. 2267 be modified to strengthen the potential role of Tribal Gaming Authorities.

- **Restrictions on unlicenced competitors.** As I mentioned before, our tribes have been a gold standard for many years in meeting and exceeding all regulatory requirements for tribal

government gaming. As part of our commitment in this area, we have strictly complied with current U.S. laws prohibiting the acceptance of Internet wagers, as have all other tribes and commercial gaming entities in the United States. Failure to do so would have resulted in breaches of our compacts and closure of our gaming facilities. We would ask that in fairness to tribes and domestic commercial casinos who have had to comply with U.S. law, H.R. 2267 be modified in regard to licensing of foreign operators to require some period of lawful operation under license by a reputable foreign government as a prerequisite for seeking licensure on the same footing as U.S. applicants.

- **Enhancements to licensing and regulatory provisions.** As stated above, we agree with your belief that Internet gaming can be successfully licensed and regulated. Currently, H.R. 2267 does not require that Internet gaming facilities be located in the United States, which could severely hamper regulatory efforts. Requiring facilities to be located domestically would greatly aid regulation, and quiet potential criticisms of the legislation.

  Additionally, H.R. 2267 requires that only the top five officers of the gaming entity be licensed. At our tribal government gaming facility, every employee from the CEO down to janitorial help must be licensed, with higher scrutiny for key employees and others in sensitive positions. This protects our facility from being penetrated by unsuitable persons at all levels, ensuring the security of our operations. We would suggest that H.R. 2267 be modified in a similar manner, with language allowing for the expedited review of those individuals holding licenses or gaming entitlements from other qualified state or tribal regulatory agencies, provided there is access to relevant licensing information and cooperation with the licensing agency. Finally, one additional area we would like to see addressed more explicitly in H.R. 2267 is the testing and certification of software and other equipment used for Internet gaming referenced above. At our brick-and-mortar facilities, every piece of equipment used for gaming, be it slot machines, gaming tables, chips, or video terminals, must be tested and certified by regulators prior to use. This certification process assures players that the games they are wagering on are fair and honest. With Internet gaming, we believe that such an equipment testing and certification process is vitally important to build consumer confidence in the product, and measures providing for these activities should be included in the legislation.

- **Prohibition of Internet Casino Parlors**. H.R. 2267 should provide prohibitions or restrictions on networking or grouping terminals in one physical place for play of internet gaming otherwise authorized. While this would prevent internet café casinos, it would also deter or prevent kick-back schemes and other criminal behavior, particularly in light of no requirements for security, surveillance, patron dispute resolution, physical facility licensing, or safety standards as currently written. H.R. 2267 should provide for effective and meaningful enforcement of this provision.

- **Strict enforcement against unlicensed sites.** One of the reasons that tribal and commercial brick-and-mortar gaming facilities are successful is that any unlawful or unregulated facilities are immediately shut down. We believe that similar measures in Internet gaming will be even more vital to the success of legalized and regulated sites. If unlicensed and unregulated sites are able to offer their product to American citizens, free of the obligation to pay taxes and obey regulations, these sites will flourish at the expense of those who play by the rules and honor the intentions of your legislation. Therefore, we would like to see strict enforcement of regulations to disrupt and shut down these sites upon passage of your legislation to protect newly licensed domestic competitors. In our opinion, these provisions would provide great assistance to achieving your goal of secure and soundly regulated Internet gaming that protects consumers, combats problem and compulsive gambling, and realizes real tax revenue generation for state, tribal, and federal governments.

- **Introduce poker only in Phase I.** Perceived competition to state lotteries and brick-and-mortar facilities from internet slots would create powerful opposition to full Internet gaming. It is our belief that a poker only introduction would allow the U.S. market to establish appropriate regulatory schemes and realize the popularity of online gaming for possible expansion.

Once again, the Tribe greatly appreciates your interest in tribal input on H.R. 2267. It is our hope that you will strongly consider the enhancements we have suggested in our testimony to your legislation.

We look forward to working with you closely on H.R. 2267 in the coming weeks and months, and hope to together achieve your goal of safe, secure, regulated, and taxed internet gaming.

Statement of Tom Malkasian
Vice Chairman of the Board, Commerce Casino
On HR 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act

Good afternoon Chairman Frank, Ranking Member Bachus, and Members of the Financial Services Committee. It is a pleasure to be here today to offer testimony on HR 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act

My name is Tom Malkasian, and I am an owner, board member and director of strategic planning of the Commerce Casino, located in Los Angeles County, California. Prior to my current position with Commerce Casino, I spent over 27 years in the banking industry, managing multi-billion dollar commercial real estate, lending portfolios for Money Center, International and major regional banks in Los Angeles and Orange Counties.

The Commerce Casino is the world's largest poker casino, with 243 licensed gaming tables and over 2,600 employees. Together with our fellow Los Angeles area poker clubs, we represent the largest concentration of licensed "brick and mortar" poker casinos in the world.
Collectively, we employ over 10,000 individuals, residing throughout Los Angeles and Orange Counties. We provide thousands of good-paying jobs for our employees, many of who, reside in economically distressed and minority communities that have been hard hit by the recession.

Commerce Casino is a member of a coalition of California poker clubs and sovereign Indian nations that supports legalization of Internet gaming. With a solid business plan and regulatory oversight, we believe limited forms of online gaming can provide safe play for patrons and tax revenues to the jurisdictions in which they operate.

Chairman Frank, I applaud your initiative in seeking to address the issue of legalizing and regulating Internet gaming. Therefore, it is with regret that I must testify in strong opposition to H.R. 2267 as currently written, and urge Members of the Committee to vote against it barring numerous and significant changes to address what we view as the many weaknesses currently in the legislation.

Throughout my many years in banking and casino management, I have been a "numbers guy". I have learned that no matter how good the numbers sound when something is being promoted, if the details don't support the numbers, the plan won't work.

My first criticism addresses the proposed bill's highly touted projected revenues that are not supported by the language in the bill.

HR 2267 proponents have frequently boasted that legalizing Internet gaming will generate $42 billion in new federal revenues. As evidence, they cite the Congressional Joint Committee on Taxation study that looked at four different revenue scenarios. Three of these scenarios forecast revenues in the range of $10-14 billion over ten years, while the fourth estimate was $42 billion over ten years.

The problem with these estimates is that they are all built on false assumptions and conflicting representations.

First, even the lowest revenue estimate assumes that all Internet gaming facilities licensed under the bill would be required to be located in the United States. That requirement does not exist in HR 2267.

Second, the highest revenue scenario, $42 billion in revenue, is also based on the assumption all facilities must locate in the US. Additionally it assumes that no state or tribe would be permitted to opt-out of the federal Internet gaming system proposed in HR 2267. In effect, to raise $42 billion in new revenue, Congress would require an unprecedented federal takeover of an entire sector of the gaming industry. A move that would violate state, federal and tribal gaming laws and the right of states and tribes to decide what is best for themselves.

Third, supporters of HR 2267 are straddling two conflicting claims. On the one hand, they assure members of Congress who do not want Internet gaming in their states, that the bill will allow them to 'opt-out'. On the other, they say legalization will generate $42 billion in new federal tax revenue. According to the Joint Tax Committee's own report, these two stances are absolutely incompatible.

You can either have a state opt-out provision, or you can have $42 billion in new federal revenue, but you cannot have both. Let me say that again, because it bears repeating. You can have a state opt-out provision, or you can have $42 billion in new federal revenue. But you cannot have both. To get the $42 billion, you must take away the right of each and every state and every one of 564 Indian tribes to opt-out of Internet gaming.

Anyone telling Members otherwise is disingenuous at best, and deliberately dishonest at worst.

And there are major flaws to the state opt-out provisions. HR 2267 allows a state or tribe to opt-out of the federal system within 90 days of enactment, at the direction of the governor or tribal chair.

Given the complex balance of gaming in most states, including commercial and tribal casinos, racetracks, and lotteries, this is too little time to weigh the consequences of participation. It is too much power for one individual making decisions behind closed doors.

A much better alternative would be to amend HR 2267 to require a state or tribe to affirmatively opt-in to the federal system by a vote of the legislature or tribal council, and signed into law by the governor or tribal chair. This would allow much-needed time for analysis and public debate over a state or tribe's participation in Internet gaming.

Let me turn now to the significant lack of regulatory oversight. The word 'regulation' appears in the title of HR 2267. But real and meaningful gaming regulation, as currently practiced by many states and Indian tribes, is in short supply in the current version of the bill.

Any meaningful regulation of gaming facilities must begin with the principle that all facilities must be open to gaming regulators for compliance inspections 24 hours a day, 7 days a week, and 365 days a year. Astonishingly, HR 2267 does not even require Internet gaming facilities to be located in the United States, where regulators would have constant access to operations.

Most current Internet gaming facilities operate from overseas tax havens, beyond the reach of U.S. regulators and law enforcement. HR 2267 should be changed to require all facilities and personnel licensed under the act to be physically located in the US. Such a requirement would also have the added benefit of creating jobs in the United States, rather than outsourcing yet another American industry to low-wage, no-rules locations overseas.

Another regulatory flaw is the deviation from well-established state standards in the licensing of employees. Every employee of the Commerce Casino, no matter their position, must undergo a background check, be licensed, and receive training in stopping problem and underage gaming. All vendors providing services on our casino property must undergo similar license requirements. Under HR 2267, only five employees of an Internet gaming operation must be licensed, and no vendors are required to be licensed at all, leaving a huge loophole where an operation could be penetrated by cheats and criminals.

The proposed legislation lacks of any kind of mandate for testing and certification of the hardware and software used to conduct Internet gaming. Internet gaming will require the highest standards attainable in order to successfully protect players, stop cheating and money laundering, and prevent underage and problem gambling.

Chairman Frank, I urge you in the strongest possible terms to incorporate these needed regulatory changes in the language of the bill. These issues are far too important to leave to the rulemaking process at the Department of Treasury, which has no experience whatsoever in gaming regulation.

I fear that, if not addressed in the legislation, these issues will fail to be addressed by inexperienced Treasury officials who have never engaged in any kind of gaming oversight.

HR 2267, as written, also fails many fundamental tests of fairness by favoring overseas Internet gaming operators over law-abiding, tax-paying domestic gaming interests.

For years, overseas sites beyond the reach of US law enforcement have offered Internet gaming to American customers in violation of US laws. In doing so, they have built brand name recognition and a strong customer base at the expense of American casinos and Indian tribes, who would have been shut down had they engaged in the same activities. Therefore, overseas sites that have been breaking the law would start off with a tremendously inequitable competitive advantage over law-abiding American casinos and Indian tribes.

Unfortunately, HR 2267 does not address this unfair situation because it allows illegal foreign sites to be licensed despite their past actions, when in fact they should be deemed ineligible to ever be licensed.

If the Congress were ever to decide to legalize marijuana, certainly no one would suggest that the first federal permits to sell it should go to the Tijuana drug cartel since they have the most money and experience in marketing and distributing the product. Yet illegal foreign gaming interests are suggesting just that for Internet gaming, lobbying hard in DC to ensure that HR 2267 is not modified to exclude them based on their past misdeeds.

Let's face it. Overseas Internet gaming operators are currently spending millions on lobbying front groups, such as the Safe and Secure Internet Gaming Initiative, hoping to leave as many regulatory loopholes unplugged as possible.

The issues of unfairness in HR 2267 do not end here. Our friends and competitors in the tribal gaming community are treated particularly unfairly in this bill. Tribes in California have the exclusive right to offer slot machines and other Class III games. We respect and support their tribal-state gaming compacts and the Class III gaming exclusivity they fought long and hard for.

In return for this exclusive right, California tribes pay the state several hundred million dollars each year in revenue sharing.

HR 2267 would violate California tribes' exclusive right to operate these Class III games by allowing foreign and other competitors to offer games only tribes are entitled to. Saddled with the loss of their exclusivity and operating under unfair tax standards, the tribes would be attempting to compete with foreign entities armed with the unmerited advantages of lax regulation and no tax obligations. We stand with the California tribes in opposing this violation of their rights and sovereignty.

Revenue provisions in HR 2976, the companion bill to HR 2267, further compound unfairness in the legislation. Tribal nations offering Internet gaming would be subject to a direct federal tax. This is a violation of tribal sovereignty, and sets a terrible precedent that may lead to expanded federal taxation of other tribal gaming activities.

Additionally, by setting the rate of state taxation on Internet gaming at 6% of account deposits, most commercial and tribal gaming operations will be undermined and placed at a significant tax disadvantage compared to Internet gaming.

For example, Pennsylvania casinos pay 55%, Indian casinos 46%, and Illinois riverboats 40% of their gaming revenue to states. This disadvantage creates incentives to close physical facilities in most states, lay off workers, and set up Internet-only operations in overseas tax havens.

The competitive disadvantage is equally bad for Indian tribes, who pay revenue shares of up to 25% in many states for the exclusive right to offer certain games.

In summary, we believe the Frank and McDermott bills:

- are based on false revenue assumptions;
- enshrine arbitrary and unfair tax inequities into law;
- violate federal and state tribal gaming law;
- endanger the flow of commercial and tribal gaming revenue to local, state and federal governments;
- and brazenly rewards illegal foreign operators by locking in unprecedented market advantages that can undermine and destabilize the land-based American gaming industry. A law-abiding, strongly-regulated industry that federal and state governments rely upon for the jobs and revenue they provide.

Mr. Chairman, this concludes my remarks on HR 2267. I appreciate the opportunity to testify today, and would be happy to take any questions from you or Members of the Committee.

For further information,
contact Tom Brierton at 202-680-2857 or Waltona Manion at 818-785-5525.

CUNA & Affiliates

Credit Union National Association, Inc.
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(202) 638-5777

Testimony of

Edwin Williams
President and CEO
Discovery Federal Credit Union
On behalf of
The Credit Union National Association

Before the Committee on Financial Services

Hearing on
H.R. 2267, the Internet Gambling Regulation, Consumer Protection and Enforcement Act

July 21, 2010

Mr. Chairman, Ranking Member Bachus, and Members of the Financial Services Committee: Thank you very much for the opportunity to testify at today's hearing on behalf of the Credit Union National Association (CUNA). My name is Ed Williams and I am President and Chief Executive Officer of Discovery Federal Credit Union in Reading, Pennsylvania. I am also a member of CUNA's Board of Directors.

CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,700 state and federally chartered credit unions and their 92 million members. With total assets of approximately $130 million, Discovery Federal Credit Union serves 10,500 members in the community of Berks County, Pennsylvania.

CUNA, of course, does not condone any illegal activity. However, the Unlawful Internet Gambling Enforcement Act (UIGEA) and its implementing regulations represent an inappropriate and unreasonable compliance burden which causes us great concern. In short, the law makes credit unions and other financial institutions liable if transactions with illegal Internet gambling providers are approved, but does not provide us with a definition of "unlawful internet gambling," much less a list of illegal Internet gambling providers.

Even if credit unions were not struggling to comply with an ever-increasing regulatory burden—which they are—it is unreasonable to assign the liability for policing Internet gambling activity to depository institutions, many of which are small, without giving them the means necessary to determine which transactions are illegal. The Treasury Department and the Federal Reserve Board have concluded that they cannot track who these entities are and leave this burden to the private sector.

We are thankful that the regulatory regime promulgated by the Federal Reserve Board and Treasury did take steps toward reducing the burden that my credit union faces in complying

with UIGEA, but it has not removed the liability that we—or our service providers—face if we are wrong.

The UIGEA rules put the onus on depository institutions serving non-consumer accountholders to ensure that those entities are not operating in violation of UIGEA. This generally involves asking the new non-consumer credit union members (which include not only businesses, but non-profit organizations, trusts, etc.) about Internet gambling during the account-opening process, and when necessary obtaining a certification from the member that they are not engaging in illegal Internet gambling activity. To ensure compliance with respect to blocking transactions, we rely on policies and procedures developed by the various payment card system operators -- transactions that receive a certain code are blocked from payment. At my credit union, the number of transactions that are blocked is no more than a handful per month. This process, unfortunately, catches some false-positives -- transactions which should not have been blocked because they were not illegal Internet gambling transactions, notwithstanding the code assigned by the payment card network.

As we said in our comment letter to the Department of the Treasury and the Federal Reserve Board in December 2007[1], we believe that part of the solution to the compliance problem credit unions face could be the enactment of legislation like H.R. 2267, the Internet Gambling Regulation, Consumer Protection and Enforcement Act, which would require Internet gaming businesses to be licensed and pay user fees. By registering these businesses, the legislation provides safe harbor for financial institutions to make payments to these federally registered sites without any risk of violating UIGEA. H.R. 2267 promotes regulatory simplicity while assisting financial institutions compliance with UIGEA.

[1] http://www.cuna.org/reg_advocacy/comment_letters/cl_121207.html

Under this measure, we expect that a list of licensed gambling enterprises would be developed for use in identifying and blocking transactions for Internet gambling businesses that are not on the approved list. Our hope is that this information would be augmented by information from the Justice Department regarding such businesses or individuals involved in illegal gaming activities. Such an approach would promote compliance for institutions by providing them a much greater level of certainty as to whether a transaction for a particular entity should be prevented. In conjunction with the development of such a list, the exemptions and safe harbor provisions in the proposal would help provide a regulatory framework that assists in policing illegal Internet gambling activities without inflicting unreasonable compliance burdens on financial institutions.

Although H.R. 2267 is a step in the right direction, we would like to work with you, Mr. Chairman, to strengthen the safe harbor rules currently in the bill. Specifically, we ask Congress to direct the Departments of Treasury and Justice to develop and maintain a list of illegal Internet gambling providers and provide safe harbors to financial institutions which use both the lists of legal Internet gambling providers and illegal Internet gambling providers when determining whether a transaction should be blocked.

Credit unions are already burdened with heavy policing mandates and limited resources. Our compliance responsibilities under the Bank Secrecy Act and Office of Foreign Assets Control (OFAC) rules are extraordinary. We do not think that UIGEA can be fairly implemented without creating a list similar to what OFAC publishes to tell financial institutions who are the "bad guys."

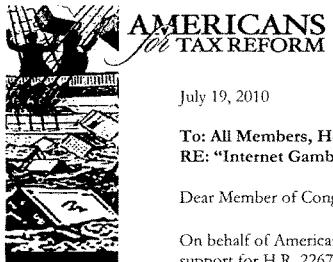
We know that the Department of Treasury and the Federal Reserve Board gave significant consideration to the development and maintenance of a list of unlawful Internet gambling providers during the UIGEA rulemaking. They concluded that such a list would not be

effective or efficient because the agencies enforcing UIGEA lacked competency to interpret laws enforced by other governments and agencies, particularly state legislatures and law enforcement agencies; the payment transactions would not necessarily be made payable to the business's listed name; some payment systems do not process the transaction based on the payee name; and such a list would be outdated quickly.[2] If the Federal government is unable to know which entities are illegal Internet gambling businesses, how in the world are depository institutions like mine expected to know?

Mr. Chairman, credit unions are already heavily burdened by the policing duties imposed on them. Your legislation takes a step in the right direction and would add a degree of certainty to credit union compliance with UIGEA. We appreciate your tireless effort on this issue. Nevertheless, we continue to maintain that if the government decides certain gaming is illegal and mandates financial institutions police the illegal activity, the government should have the responsibility to produce a list of bad actors and provide safe harbors to depository institutions that use the list.

Thank you very much for the opportunity to testify at today's hearing. I am pleased to answer any questions the Members of the Committee may have.

[2] Federal Register. Vol. 72, Number 223. November 18, 2008. 69384.



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July 19, 2010

To: All Members, House Committee of Financial Services
RE: "Internet Gambling Regulation, Consumer Protection, and Enforcement Act"

Dear Member of Congress,

On behalf of Americans for Tax Reform, I am writing today to express this organization's support for H.R. 2267, the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act," introduced by Rep. Barney Frank (D-MA). This bill would set up the framework for internet gaming to be played legally, and under U.S. regulation, in the states. Though not perfect, this framework is clearly superior to the unworkable status quo.

In 2006, Congress passed the "Unlawful Internet Gaming Enforcement Act (UIGEA)." During debate of this legislation, ATR voiced its concerns over provisions enacted that force banks and credit card companies to spy on their customers and report how they use their credit cards. Even worse, consumers are forced to pay for this loss of privacy as banks pass along any additional expenses incurred from the new law to their customers. These regulations violate the rights of online customers and impose a hefty burden on us all.

Already each year, millions of Americans ignore online gaming bans and wager more than $100 billion with offshore gambling operators. Since online gaming websites are licensed, regulated, and taxed in the jurisdiction in which they are based, neither U.S. companies nor government treasuries see any revenue from this activity. H.R. 2267 would establish the licensing and regulatory frameworks needed to allow revenue to be raised from online gaming. This would not constitute a tax increase on consumers since a previous legal framework for domestic licensing has not existed in the United States.

Importantly, restrictions on online gaming place the United States in violation of several international trade agreements to which the U.S. is a signatory. In 2007, the World Trade Organization sided with the Caribbean nations of Antigua and Barbuda when it ruled that the U.S. unfairly prohibits foreign Internet gambling operators from accessing the U.S. market, while providing exemptions for online betting for horseracing and on Native American gambling websites. Since that ruling, the European Union, Japan, India, Canada, Australia, Costa Rica, and Macao have joined the two island nations in seeking compensation from the United States. More recently, the European Commission issued a preliminary report citing similar concerns regarding America's discriminatory online gaming policies. If lawmakers were truly concerned about the "societal impact" of gaming they wouldn't have sanctioned certain domestic online gaming activities and would be making efforts to close them, too.

While ATR does not have an institutional opinion regarding online gaming, current law places an onerous regulatory burden on the banking industry, violates personal privacy, disadvantages American companies and budgets, and harms international trade relationships. All this occurs even as the legislation seems to have little effect in dissuading Americans from gambling online, even if one should admit that such an objective is within the proper competency of the federal government.

Onward,

Grover G. Norquist

July 20, 2010

The Honorable Sander M. Levin
Chairman
United States House of Representatives
Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Dave Camp
Ranking Member
United States House of Representatives
Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Levin and Ranking Member Camp:

We write to express our serious concerns about H.R. 4976, the "Internet Gambling Regulation and Tax Enforcement Act of 2010," and the legislation it implements, H.R. 2267, the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act." The "optimum" revenue effects of these bills can be achieved only by a massive and unprecedented expansion of gambling and by preempting the powers of the States to regulate gambling within their borders.

Gambling regulation has traditionally been conducted by the States and Indian tribes. H.R. 2267, the substantive proposal that underlies the revenue provisions of H.R. 4976, creates an Internet gambling licensing system that vests regulatory authority in the United States Treasury Department. While H.R. 2267 allows the Treasury to partner with States to carry out regulatory and enforcement activities, the bill also provides all Federal licensees with a "complete defense against any prosecution or enforcement action under any Federal or State law." This "safe harbor" provision effectively nullifies existing State laws by placing all Federal license-holders outside of the scope of the States' own gambling enforcement powers.

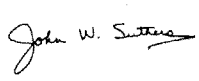
H.R. 2267 also preempts current Federal laws that are vital to State gambling and regulatory frameworks. State laws are reinforced by Federal statutes that either rely on substantive State provisions or prevent interstate incursions on State-level public policies. The Federal Wire Act of 1961, for instance, supplements State gambling controls by barring interstate wagers. The Unlawful Internet Gambling Enforcement Act of 2006 is structured, in part, around State gambling laws. By exempting licensees from laws such as the Wire Act or UIGEA, H.R. 2267 severely impairs this long-standing, complementary relationship between Federal and State regulatory systems.

Importantly, the revenue-generating power of H.R. 4976 depends almost entirely on the Federal preemption made possible by H.R. 2267. H.R. 2267 does provide a restrictive opt-out mechanism through which the States may decline to participate in the Federal licensing system. However, the Joint Committee on Taxation's most expansive of four different estimates - $42 billion - is based on discarding even these State opt-out rights in favor of complete Federal preemption. In that estimate, the Joint Committee explicitly assumed that "no State or tribal government will be permitted to limit federally licensed Internet gambling operators from providing online gambling services in their jurisdictions." In other words, H.R. 4976 will generate $42 billion only if H.R. 2267's opt-out procedure--its principal State-protective provision--is eviscerated.

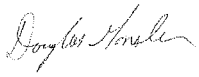
The Joint Committee on Taxation estimate that is most closely based on the texts of H.R. 2267 and H.R. 4976 indicates that the bills will generate approximately $10 billion in Federal revenue. This much more modest estimate appears to assume that many States will choose to opt-out in order to prevent the expansion of gambling on the Internet. While we realize that H.R. 4976 provides license fee revenue and grants to the States, these incentives do not assuage our concerns. We oppose this legislation.

Thank you for considering our views.

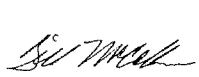
Sincerely,



John W. Suthers
Colorado Attorney General



Douglas F. Gansler
Maryland Attorney General



Bill McCollum
Florida Attorney General

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
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202/463-5310

July 20, 2010

The Honorable Barney Frank
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, supports H.R. 2267, the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act," which would establish a licensed, regulated Internet gaming market in the United States. However, this legislation could be strengthened in certain ways.

As noted in previous correspondence, the Chamber has significant concerns regarding the "Unlawful Internet Gambling Enforcement Act" (UIGEA) and its associated regulatory implementation. The Chamber believed at the time that UIGEA would result in financial institutions being subject to a burdensome compliance regime, and recent history has proven these concerns correct. Despite the burden and expense visited on the U.S. financial sector by UIGEA, offshore Internet gambling operations continue unabated.

H.R. 2267 would create a licensed, regulated class of Internet gaming operators and assert the illegality of accepting Internet bets or wagers without such a license. Today, Americans bet billions of dollars on offshore Internet gaming sites. The United States should seek to bring that commerce on-shore and regulate it to provide appropriate protections to consumers. The Chamber believes that H.R. 2267 would create jobs and revenue for federal and state governments, while better keeping minors and problem gamblers off of Internet gaming sites.

The Chamber does not support sports betting, which is illegal in 48 states, and which can have corrosive effects on the integrity of professional and amateur sports. The Chamber is pleased that H.R. 2267 does not seek to legalize sports betting. In fact, the Chamber believes H.R. 2267 could be strengthened to make the prohibition on sports betting more explicit.

The Chamber also supports modifying H.R. 2267 to require the federal government to create a list of businesses engaged in unlawful Internet gambling so that regulated financial institutions could comply with UIGEA by avoiding the transfer of funds to companies on that

list. Such an initiative would ease the compliance burden on financial institutions, be more effective against illegal gambling businesses, and create a clear appeals process for anyone wrongfully on the list.

The global framework of this issue cannot be overlooked. In a trade dispute initiated by the government of Antigua and Barbuda, the World Trade Organization (WTO) ruled that the U.S. position on Internet gambling was inconsistent with its obligations under the General Agreement on Trade in Services (GATS). Negotiations with the Antiguan government on this issue have been extended repeatedly over a period of years. The Chamber believes H.R. 2267 should be strengthened to include a "sense of Congress" that the negotiations with Antigua should be brought to a swift conclusion.

The Chamber supports H.R. 2267 and looks forward to working with the Committee to strengthen and improve this important legislation.

Sincerely,

R. Bruce Josten

Cc: The Members of the Committee on Financial Services

July 20, 2010

The Honorable Barney Frank
Chairman
United States House of Representatives
Financial Services Committee
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member
United States House of Representatives
Financial Services Committee
Washington, D.C. 20515

Dear Chairman Frank and Ranking Member Bachus:

On behalf of Concerned Women for America's (CWA) 500,000 members nationwide, I am writing today to express our opposition to H.R. 2267, the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act," and its companion legislation, H.R. 4976, the "Internet Gambling Regulation and Tax Enforcement Act of 2010." These bills would usher in the largest expansion of gambling in American history, a policy that would inflict major social damages on American families.

In 2006, Congress chose to combat, rather than encourage, these costs by enacting the Unlawful Internet Gambling Enforcement Act (UIGEA). After several delays in the implementation of this law--delays primarily orchestrated by foreign Internet gambling interests --the UIGEA regulations took full effect on June 1, 2010. Passage of H.R. 2267 and H.R. 4976 would abruptly reverse this course, trading UIGEA's commitment to protecting American citizens for tax revenue that is essentially dependent on the exploitation of those citizens.

While Internet gambling has been and continues to be illegal in the United States, the industry has grown into a multi-billion-dollar operation in recent years as offshore gambling websites have been able to evade U.S. law enforcement efforts. Prosecution of these foreign companies has been nearly impossible, making it crucial to fully implement UIGEA.

H.R. 2267 licenses and federally regulates Internet gambling, permitting foreign and domestic Internet gambling operators to accept wagers from U.S. customers. H.R. 4976 contains tax and other revenue provisions based on H.R. 2267's licensing scheme. Proponents of the bills claim that the legislation will collectively raise billions in federal and state revenues simply by taxing activities that are already occurring on the black market. As the Joint Committee on Taxation (JCT) estimates, maximum revenue is achieved only by completely pre-empting any contradictory federal or state gambling laws.

However, such "easy money" comes at a big price, as the federal government becomes dependent on gambling revenue. A dramatic, government-sanctioned gambling expansion will impose vast socio-economic costs, especially on families. Compulsive gambling threatens families with a variety of financial, physical, and emotional problems, including divorce, domestic violence, child abuse and neglect, and a range of problems stemming from the severe financial hardship that commonly results from pathological gambling.

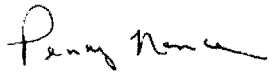
Internet gambling activities exemplify the most dangerous aspects of gambling. Online gambling sites place electronic gambling at every office, every school desk, and in every living room. The instant accessibility and anonymity of such sites make them a particularly alluring forum for teenagers and young adults; according to several studies, gambling addiction is the fastest growing addiction among young people. Internet gambling sites also provide a convenient mechanism for criminals to illicitly transfer or launder money quickly, secretly and with a low chance of detection. Therefore, it creates fertile ground for criminal activity, threatens homeland security and could potentially fund terrorist activity.

The real gains to be enjoyed by the enactment of H.R. 2267 and H.R. 4976 will go to Internet gambling interests, and the real costs will be borne by American households. Whatever the amount of revenue raised by these bills, we strongly believe that it would never be worth the price of such an expansive and irresponsible gambling policy. We therefore stand vigorously opposed to this legislation, and any proposals that prioritize financial and special interests over the well-being of American families.

CWA firmly believes that UIGEA provides the best means to help stop much of the illegal Internet gambling that preys upon and destroys American families, and we maintain that UIGEA should be enforced. H.R. 2267 and H.R. 4976, on the other hand, would completely undermine the law and would open the floodgates for serious social problems in the name of tax revenue.

We urge a "no" vote on both H.R. 2267 and H.R. 4976 and will score against them if they come to the House floor for a vote.

Sincerely,



Penny Nance
Chief Executive Officer
Concerned Women for America

cc: Financial Service Committee Members

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

November 13, 2009

Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives
Washington, DC 20515

Dear Congressman Bachus::

I am writing in response to your letter to Director Robert S. Mueller, dated October 19, 2009, concerning your questions relating to Internet gambling. I will address these as you mentioned them in your initial correspondence:

- Does technology exist that could facilitate undetectable manipulation of an online poker game?

Yes, the technology exists to manipulate online poker games in that it would only take two or three players working in unison to defeat the other players who are not part of the team. Technically, the online poker vendors could detect this activity and put in place safeguards to discourage cheating, although it is unclear what the incentive would be for the vendor. It really comes down to a cost analysis for the vendor. How much money will I make or lose by detecting cheating and implementing the safeguards?

- Could technology be used to illicitly transfer or launder money in the guise of "innocent" participation in an online poker game, or the undetectable theft of money from one participant in such a game, by others acting on concert? If yes, to what degree?

Yes, online poker could be used to transfer ill gotten gains from one person to another, or several other people. Private tournaments exist on several online poker programs which would allow a subject to create a private game with his/her money mules. Once the game is created, the subject could raise the pot, to whatever maximum amount is allowed, and then fold before the hand is finished. This would allow the subject to transfer the money from his account to the mule account. This activity could repeat itself several times, virtually "washing the money." Once again, this activity could be detected by the vendors, but at what cost? Also, there are several ways to cheat at online poker, none of which are illegal. Teams of players could work in

unison, revealing to each other what cards they have in their hands. Based on the known cards, the team could use this knowledge to raise the pot. The players who are not part of the team would be at a distinct disadvantage because they do not have the knowledge of what cards are already in play. Several bots, software programs, have been created to play online poker. These bots are programed to take in all the information about a given hand and use that information to formulate the chances of the bot having the winning hand. Most online poker sites have a specific section of their user agreement that bans bots from their poker rooms. Bots have a distinct advantage over real players in that they can use the processing power of the computer to determine the chances of winning.

- Does the Federal government have the ability in terms of qualified personnel and financial resources to regulate Internet poker if it is legalized?

FBI investigative resources are focused on our highest priorities, that being Counterterrorism, Counterintelligence, and Cyber threats to critical infrastructures.

- Do you believe the claims of vendors who say they have technology solutions that would validate the age of a potential player in an online poker game, or the physical location, beyond a shadow of doubt?

While the vendors may claim that they can validate age and location, they are more than likely relying on credit card information and geolocation to gather this information. Both can be spoofed. For age verification, the possession of a credit card is usually the only validation these sites require. Credit card numbers are easily compromised and can be bought by the hundreds on several "underground" websites. Therefore, the simple act of owning a credit card number does nothing to validate someone's age. For location verification, the vendors are more than likely going to rely on geolocation. While geolocation can be accurate when used to determine the physical country of residence, it becomes exponentially less accurate when determining the city or zip code. Additionally, the use of Internet Protocol (IP) address based information for geolocation allows for the manipulation of geolocation information. By changing the IP address information, someone can make it appear that their residence is in a different location.

- Has U.S. law enforcement discussed potential vulnerabilities of online poker with foreign counterparts? If so, what views have been expressed?

The FBI has not engaged in this discussion with our foreign partners.

- Please detail any known or alleged incidents of online cheating, particularly efforts by online casinos themselves, to manipulate the outcome of games using technology such as "pokerbots", for example.

While casino software could very easily be employed to manipulate games, the FBI has no data in this area.

I hope this information will be of assistance to you.

Sincerely yours,

Shawn Henry
Assistant Director
Cyber Division

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

February 2, 2010

The Honorable Jon Kyl
United States Senate
Washington, DC 20510

Dear Senator Kyl:

Thank you for your letter dated February 1, 2010, regarding the extension of the compliance date for the regulation prescribed by the Department of the Treasury and the Federal Reserve Board implementing the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). You asked three questions.

First, it is the position of the Department of the Treasury that no further extension of the compliance date set for June 1, 2010, is warranted.

Second, I believe that the regulation is appropriate and will cost-effectively carry out the purpose of UIGEA.

Third, I believe that enforcement of the regulation will assist the United States in fighting the financing of illicit enterprises that threaten national security.

Thank you for your interest in this important matter. I look forward to working with you on this and other issues.

Sincerely,

Timothy F. Geithner

July 20, 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable John Boehner
Minority Leader
U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

The Honorable Harry Reid
Majority Leader
United States Senate
S-221, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

To the Leadership of the U.S. House of Representatives and Senate:

We write to express our concern about H.R. 2267, the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act," and its companion legislation, H.R. 4976, the "Internet Gambling Regulation and Tax Enforcement Act of 2010." Together, these bills propose the most aggressive expansion of gambling in American history, a misbegotten policy that would inflict an untold number of social costs on American families.

H.R. 2267 licenses and federally regulates Internet gambling, permitting foreign and domestic Internet gambling operators to accept wagers from U.S. customers. H.R. 4976 contains tax and other revenue provisions based on H.R. 2267's licensing scheme. Proponents of the bills claim that the legislation will collectively raise billions in federal and state revenues simply by taxing activities that are already occurring on the black market. As the Joint Committee on Taxation (JCT) estimates, maximum revenue is achieved only by completely pre-empting any contradictory federal or state gambling laws.

But such "easy money"comes at a big price, as the federal government becomes dependent on gambling revenue. A dramatic, government-sanctioned gambling expansion will impose vast socioeconomic costs, especially on families. Research has enumerated a multitude social ills that occur when gambling is legalized and promoted, such as increased bankruptcies, underage gambling, and higher rates of divorce and suicide, among other family problems.

Internet gambling activities exemplify the most dangerous aspects of gambling. Online gambling sites place electronic gambling at every office, every school desk, and in every living room. The instant accessibility and anonymity of such sites make them a particularly alluring forum for teenagers and young adults; according to several studies, gambling addiction is the fastest growing addiction among young people. Internet gambling sites also provide a ready mechanism for criminals to illicitly transfer or launder money quickly, secretly and with a low chance of detection.

In 2006, Congress chose to combat, rather than encourage, these costs by enacting the Unlawful Internet Gambling Enforcement Act (UIGEA). After several delays in the

implementation of this law--delays primarily orchestrated by foreign Internet gambling interests --the UIGEA regulations took full effect on June 1, 2010. Passage of H.R. 2267 and H.R. 4976 would abruptly reverse this course, trading UIGEA's commitment to protecting American citizens for tax revenue that is essentially dependent on the exploitation of those citizens.

Additionally, as the group Americans for Tax Reform (ATR) has pointed out, taxation of the Internet, which H.R. 4976 calls for on a major scale, could "seriously impede interstate commerce, put states at a competitive disadvantage with other states, encourage online black-markets and threaten property rights, and hamper the growing free-market that is the internet."

The real gains to be had by the enactment of H.R. 2267 and H.R. 4976 will go to Internet gambling interests, and the real costs will be borne by American households. Whatever the amount of revenue raised by these bills, we strongly believe that it would never be worth the price of such an expansive and irresponsible gambling policy. We therefore stand vigorously opposed to this legislation, and any proposals that prioritize financial and special interests over the well-being of American families.

Thank you for considering our views.

Sincerely,

Tom McClusky, Senior Vice President
Family Research Council Action

Dr. Carl Herbster, President
AdvanceUSA

Jim Minnery, President
Alaska Family Council

Jim Backlin, Vice President of Legislative Affairs
Christian Coalition of America

Penny Nance, CEO
Concerned Women for America

David Fowler, Esq., President
Family Action of Tennessee

Kris Mineau, President
Massachusetts Family Institute

Tom Minnery, Senior Vice President
Government & Public Policy
Focus on the Family

Rev. Jason J. McGuire, Executive Director
New Yorkers for Constitutional Freedoms

Bill Brooks, President
North Carolina Family Policy Council

Stephen Stone, President
Renew America

Dr. Richard Land, President
Southern Baptist Ethics & Religious Liberty Commission

C. Preston Noell III, President
Tradition, Family, Property, Inc.

Julaine K. Appling, President
Wisconsin Family Action

Cc: U.S. House of Representatives
U.S. Senate

THE FINANCIAL SERVICES ROUNDTABLE

Impacting Policy. Impacting People.

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July 21, 2010

The Honorable Barney Frank
Chairman
House Committee on Financial Services

Dear Chairman Frank:

We are writing in support of your efforts to bring greater clarity to the role the financial services sector is required to play in policing unlawful internet gaming.

UIGEA has been and continues to be the subject of much controversy. The law was passed by non-traditional procedural means, and the final rule to implement the law was issued on the last night of the previous Administration. Meanwhile, as you have heard from the regulated community, service providers, consumers and the regulators themselves, the law itself is imprecise. While the final rule reflects the best work of regulators who have been given an extremely difficult task, Roundtable member companies remain concerned that the law is both unclear and burdensome given its purported benefit.

Our members have repeatedly expressed reservations that the regulation contains no bright-line definition of an unlawful Internet gambling transaction, and there is still no clear standard by which to judge an employee's "actual knowledge" that a commercial customer engaged in such a transaction.

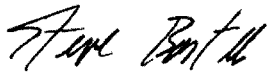
As of June 1st, Roundtable members are compliant with this flawed rule, but not without cost. In addition, we suspect based on anecdotal evidence that - given the rule and the subject it seeks to address - the law may not have any definitive impact, other than to distract bank risk managers and frustrate legitimate commerce. Indeed, it is highly likely that gamblers are still finding ways to place bets over the Internet with gambling operators, and equally likely that banks will inadvertently block legitimate transactions (for which they have appropriately received protection for over-blocking under the rule).

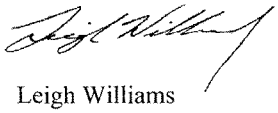
For these reasons, we strongly support your efforts to create a licensing and regulation regime that establishes "bright lines" for measuring customer activities and compliance with the law. In the past we have testified that the creation of a list of unlawful operators (or a list of legal operators) would instill greater certainty

and clarity into the process. We encourage you to fashion legislation that will result in the creation of such a list.

Thank you for your consideration of this matter.

Best regards,





Steve Bartlett
President and CEO

Leigh Williams
BITS President

National Association of Federal Credit Unions
3138 10th Street North • Arlington, Virginia • 22201-2149
(703) 522-4770 • (800) 336-4644 • Fax (703) 522-2734

Fred R. Becker, Jr.
President and CEO

July 20, 2010

The Honorable Barney Frank, Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Spencer Bachus, Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Frank and Ranking Member Bachus:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I am writing to you regarding tomorrow's hearing on H.R. 2267, the *Internet Gambling Regulation, Consumer Protection, and Enforcement Act.*

NAFCU continues to be concerned with the effect that implementation of the *Unlawful Internet Gambling Enforcement Act* (UIGEA), passed in 2006, has on our nation's credit unions. UIGEA relies on credit unions and other financial institutions to serve as a backstop for guarding against financial crimes, thereby imposing a heavy new compliance burden on these entities. We are particularly sensitive to the issue at this time given the economic downturn the country has faced, the passage of sweeping financial regulatory reform in Congress, and the amount of time that both regulators and financial institutions are currently devoting toward a number of other pressing matters.

NAFCU does, however, support reasonable and prudent actions to rein in unlawful internet gambling. H.R. 2267, the *Internet Gambling Regulation, Consumer Protection, and Enforcement Act,* would make important changes to the UIGEA to ensure that financial services providers are not unduly burdened with the cost of enforcement efforts against unlawful gambling activity. It is with this in mind that we support the efforts of H.R. 2267 and the needed changes to UIGEA it would bring. We urge swift committee action on this important legislation.

Thank you for the opportunity to express our concerns on the issue of internet gambling. Should you have any questions or require additional information please feel free to call myself or Brad Thaler, NAFCU's Director of Legislative Affairs, at (703) 842-2204.

Sincerely,

Fred R. Becker, Jr.
President/CEO

cc: Members of the House Financial Services Committee

E-mail: fbecker@nafcu.org • **Web site:** www.nafcu.org

Poker site cheating plot a high-stakes whodunit

$75 million claim filed against Canadian software firm with murky pedigree

by Mike Brunker Projects Team editor
msnbc.com
updated 9/18/2008 9:09:13 AM ET

Allegations that cheaters manipulated the software powering a leading Internet poker site so they could see their opponents' hole cards have triggered a $75 million claim against a Canadian company, msnbc.com has learned.

The alleged subterfuge on UltimateBet.com — one of the 10 top poker sites — is the biggest known case of fraud targeting an Internet gambling site and its customers, according to the company that owns the site. It is similar to a case of cheating that occurred last year on UltimateBet's sister site, AbsolutePoker.com, but this time the thieves ran the scheme for far longer — at least from January 2005 to January 2008, it said.

Word of the $75 million U.S. claim ($80 million Canadian) — the first indication of the scope of the alleged cheating — emerged this week when msnbc.com contacted a court-appointed liquidator overseeing the voluntary dismemberment of Excapsa Software Inc. of Toronto, which formerly owned and licensed the poker software to UltimateBet and other gambling sites. The claim was filed by Blast-Off Ltd. of Malta, a private company that currently has an ownership interest in Ultimate Bet.

"We're taking it seriously and are in contact with the stakeholders with a goal of settling the claim," said the liquidator, Sheldon Krakower, president of XMT Liquidations Inc. "... It's a very touchy situation. We're just trying to get everything done."

Krakower said the amount of the claim did not directly correlate with the amount believed to have been stolen from UltimateBet players, but he declined to provide additional details. He said he was hopeful that the parties were nearing a settlement.

The unprecedented claim is just the latest twist in a slowly unfolding whodunit that began more than nine months ago when poker players posted comments about suspicious play on UltimateBet in an Internet poker forum. It's a mystery steeped in international intrigue and featuring a cast of characters that includes some of the world's most famous poker players, the former grand chief of a Canadian Mohawk community and executives of a secretive Oregon Internet security company.

The company that claims ownership of UltimateBet — Tokwiro Enterprises, headquartered in the Kahnawake Mohawk Territory in southern Canada — has issued some refunds and promised to repay any players who lost money once an outside investigation is completed. But many players who haven't received credits remain fearful they will never see a dime.

'Who's going to make them pay?'

"I know I'm not going to get my money," one dejected player, Daniel Cardoso of Utah, told msnbc.com. Cardoso believes he lost several thousand dollars through the alleged scheme but has not been able to obtain records from UltimateBet to verify that. "I know there are thousands of people who aren't going to get reimbursed."

Adding to the sense of mistrust is the fact that Tokwiro Enterprises apparently is owned by Joseph Norton, the former grand chief of the Kahnawake Mohawks, who helped establish the territory as North America's only bastion of Internet gambling.

"Who's going to make them pay?" asked Nat Arem, a professional poker player and blogger who helped unravel the alleged cheating rings at UltimateBet and Absolute Poker, referring to Excapsa. "What court is this going to end up in?"

Though most forms of Internet gambling, including online poker, are considered illegal by the U.S. government, millions of players routinely risk their cash on the virtual version of the popular card game, ignoring the fact that many of the Web sites are unregulated or loosely regulated and are based in jurisdictions where a player would likely have no legal recourse in the event of wrongdoing.

UltimateBet is a popular destination for these players, largely because of its television advertisements featuring famous players such as Phil Hellmuth, the winningest player in the history of the World Series of Poker, with 11 victories, and Annie Duke, arguably the best-known female poker pro. UltimateBet and other poker sites are able to advertise on television by promoting free "play for fun" sites instead of their cash games, which are just a few clicks away.

As was the case in the Absolute Poker scandal last year, the UltimateBet case was uncovered by the players rather than Tokwiro Enterprises or the Kahnawake Gaming Commission, the agency charged with regulating online gambling from the Kahnawake territory, just south of Montreal across the St. Lawrence River.

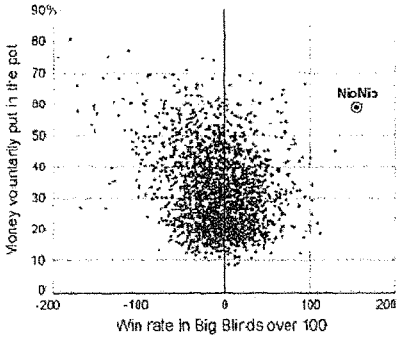
Players aired suspicions in January

Suspicious players wrote in a Jan. 8 post on the Two Plus Two online poker forum that they had noticed that certain players in the highest-stakes games on UltimateBet were playing extremely unusual strategies and winning at an unbelievably high rate. (Click here to read a synopsis of the early posts.)

Two of the players — known by the screen names "trambopoline" and "dlpnyc21" — reviewed their hand histories and found that one account in particular, using the screen name "NioNio," was making a killing, having banked an astonishing $300,000 profit in just 3,000 hands. They turned to the MyPokerIntel.com Web site, which tracks high-stakes online tournaments, where many thousands of dollars can change hands, and found that NioNio had won in 13 of the 14 sessions recorded there, cashing out with approximately $135,000.

Beyond belief

Chart prepared by Australian poker player and mathematician Michael Josem compares NioNio's winning percentage, the red dot upper right, to those of 870 "normal" accounts with at least 2,500 recorded hands. Josem said the data show that the chances of NioNio legitimately winning at such a rate "is less than his chances of winning a one-in-a-million lottery on four consecutive days."



Source: Michael Josem MSNBC

When that information was posted, Michael Josem, a mathematics-minded Australian poker player, charted NioNio's results in comparison to the results of 870 "normal" accounts with at least 2,500 hands recorded by poker-tracking software. The result, seen at left, showed that NioNio's win rate was 10 standard deviations above the mean, or less likely than "winning a one-in-a-million lottery on four consecutive days," Josem said.

As the players continued to dig, they concluded that NioNio was at the center of a web of accounts that were able to change user names with ease, making it harder for victims to detect the cheating.

"They would get a regular player, one of the accounts would play them, then that account would leave and the other account would come play them," said one poker player who helped uncover the cheating, speaking on condition of anonymity. "... They were careful to only play each player a few times, and then they went and created new account names."

Tokwiro said it was alerted to the accusations by UltimateBet players on Jan. 12 and immediately launched its own investigation.

'Unauthorized software code'

Tokwiro issued an "interim statement" on March 6 stating that it had determined that NioNio's results were indeed "abnormal." Then, on May 29 — nearly five months after the first poker forum post —the company acknowledged that NioNio and other player accounts "did in fact have an unfair advantage" obtained through "unauthorized software code that allowed the perpetrators to obtain hole card information during live play."

The company blamed the intrusion on "individuals ... (who) worked for the previous ownership of UltimateBet prior to the sale of the business to Tokwiro in October 2006."

Tokwiro's chief operating officer, Paul Leggett, in a Two Plus Two Poker podcast on June 2, said that the cheaters were able to evade UltimateBet's anti-fraud protections by "setting up these accounts so they appeared as VIP poker professionals. Because these players had this kind of status, they were able to get fast withdrawals and basically bypass our security." He also said that the company was "pursuing our options, both criminal and civil."

(Tokwiro spokeswoman Anna Molley told msnbc.com that Leggett had stopped giving interviews at the request of the Kahnawake Gaming Commission pending completion of an independent investigation.)

The explanation is similar to that given by Tokwiro after the Absolute Poker cheating scandal, which it blamed on a "high-ranking, trusted consultant ... whose position gave him extraordinary access to certain security systems." The alleged cheater in that case has never been publicly identified because Tokwiro, in a private settlement, agreed to withhold his or her identity. The site did repay the players who lost money, however.

By blaming employees of a prior owner, Tokwiro might have resolved the mystery had UltimateBet not been the rubber ball in an international shell game.

A murky corporate pedigree

Published accounts indicate that the poker software used by UltimateBet was developed in the late 1990s by ieLogic, a Portland, Ore., company. After that, things quickly become murky.

An undated and unbylined article on the TotalGambler.com Web site, titled " The history of online poker," alleges that ieLogic founders Greg Pierson and Jon Karl created the UltimateBet site at the end of 2000, along with "some secretive high stakes poker players." The article did not identify the players, but it stated that Russ Hamilton, winner of the 1994 World Series of Poker Main Event and a well-known Las Vegas gambler, was employed as a consultant and began recruiting some big-name poker players, including Hellmuth, to promote the site.

An UltimateBet spokeswoman boasted about the presence of the poker pros in a May 2001 interview with winneronline.com, saying, "UltimateBet is lucky to have so many world poker champions choose to be a part of our project. ... (They) have helped us develop a site that is true to the game."

Barry Greenstein, a respected professional poker player, has publicly stated that some of the players involved in the development of the site were given an ownership interest as compensation. "They are all very concerned that with these bad things happening, they're not going to get their money," he said in an interview on Poker Road Radio on July 16.

IeLogic never acknowledged any ownership interest in UltimateBet, saying only that it licensed its "multiplayer online games" software to the site. Then the company sought to disassociate itself from the Internet gambling

business entirely by selling its gambling software to a newly incorporated Canadian company, Excapsa Software Inc., in the spring of 2004.

Pierson and Karl held onto the other portion of ieLogic's business — "a system for predicting online fraud" — and changed the name of their company to Iovation, according to a January 2005 article in the Portland Business Journal, which first reported the sale of the gambling software.

But it is unclear to whom —and even whether — the software business was sold.

Excapsa Software, incorporated in April 2004 in British Columbia, eventually went public, making an initial stock offering on the London Stock Exchange's Alternate Investment Market in Feb. 16, 2006, that gave it a market capitalization of approximately $393 million. Documents filed in connection with the offering listed nearly 40 percent of the shares as being held by insiders — CEO Jim Ryan and five irrevocable trusts that provided no clue as to the identity of the beneficiaries. (A spokesman for Ryan, who is now CEO of Party Gaming, operator of the Party Poker Web site, declined msnbc.com's request for an interview, saying questions should be directed to Excapsa.)

In an earnings announcement on Aug. 16, 2006, Excapsa stated that it had a 20-year license agreement with UltimateBet's owner, which it identified as eWorld Holdings Ltd. of Antigua.

Lines not clearly drawn

But the lines between ieLogic, Iovation, Excapsa and eWorld Holdings were not always clearly drawn.

When UltimateBet issued a news release on July 25, 2002, announcing a joint venture with another poker site, it for the first time identified eWorld Holdings as the owner of the site and listed Jon Karl, co-founder of ieLogic, as the person to contact for further information.

IeLogic also was the first company to register the UltimateBet trademark with the U.S. Patent Office in June 2000. A little more than a year later, the company abandoned the mark and it was re-registered by eWorld Holdings.

And Melissa Gaddis, identified as the public relations manager at ieLogic in a May 2001 article on winneronline.com, also is identified in papers filed in connection with Excapsa's liquidation proceedings in Toronto as a "director of Excapsa since November 2006" ... and a "beneficial shareholder."

IeLogic co-founders Pierson and Karl, and other officials at Iovation, did not respond to msnbc.com's repeated phone calls seeking comment and refused to meet with a reporter who visited the company's Portland headquarters. Gaddis did not return a phone call to her home.

Excapsa's run as a public company was short-lived, as it sold all its assets to Blast-Off Ltd., a privately owned Excapsa licensee based in Malta, on Oct. 12, 2006, and was delisted from the AIM exchange. Blast-Off Ltd., had previously been listed in filings as an Excapsa license holder for Elimination Blackjack, a tournament version of the popular card game invented by Hamilton, the ieLogic consultant.

U.S. legislation prompted sale

The sudden sale of Excapsa's assets for $130 million, with $120 million deferred, was prompted by President Bush's looming signature of the so-called Safe Port Act, which contained a provision barring U.S. banks and other financial institutions from doing business with Internet gambling operators. That effectively put to rest the argument that companies could legally provide Internet gambling to Americans because federal law on the matter was ambiguous, and heightened the legal risks faced by owners of gambling Web sites.

Nearly a year later, Tokwiro claimed ownership of both Absolute Poker and UltimateBet. It later said it had acquired UltimateBet in October 2006 — the month Excapsa announced the sale of its gambling software to Blast-Off Ltd. — but it has never explained how or under what terms it had acquired the site.

Krakower, the court-appointed liquidator overseeing Excapsa's bid to cease to exist as a corporate entity, said that Blast-Off and Tokwiro "are somewhat one in the same," but added, "Blast-Off ... that's the key name."

The tangled corporate trail has persuaded some players that Tokwiro is a false front created to obscure the true ownership of both UltimateBet and Absolute Poker.

"(Norton) may be the plurality owner, he may be the majority owner, but there's no way he owns 100 percent," Arem said of the former Kahnawake Mohawk grand chief, who did not respond to requests for an interview.

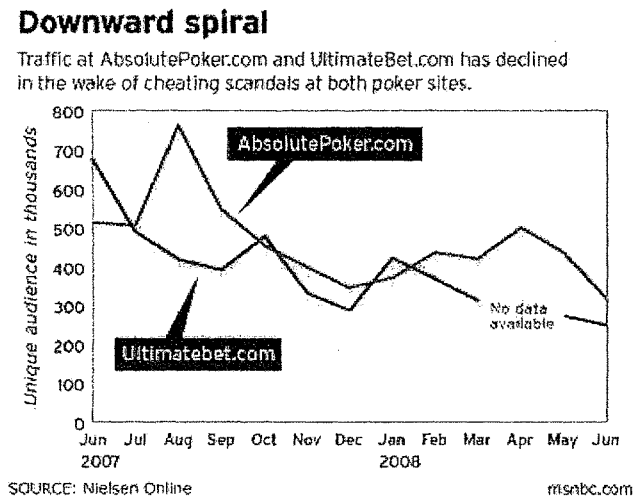
The ownership question could be cleared up at the conclusion of an outside investigation of the UltimateBet cheating ordered by the Kahnawake Gaming Commission. On July 27, the KGC announced it had asked Frank Catania, a former New Jersey state gaming regulator, to conduct "a full forensic audit/investigation" of Tokwiro to ensure that UltimateBet's games are fair and anyone connected to the alleged cheating ring is removed from the company.

'The first significant incident'

"We are all well aware of the criticism that this has drawn and are doing our best to update and implement modifications to ensure that this never happens again," said Chuck Barnett, a spokesman for the gaming commission, which has licensed more than 470 gambling Web sites operated by 55 different operators. "... In the KGC's past decade of i-gaming regulatory enforcement, this is without doubt, the first significant incident."

Some players questioned the selection of Catania, noting that he had helped the KGC develop its gaming regulations and could hardly be considered an independent investigator. But in an interview with msnbc.com he insisted he would pull no punches in getting to the bottom of the cheating allegations as well as the ownership issue — regardless of Norton's stature in the Kahnawake Mohawk community.

"We'll go in and look at reports from (KGC auditor) Gaming Associates, we'll look at employees, including ownership, look at the software ... whether the games are fair and honest and what protections have been put in place," he said. "It's going to be a complete examination of the company and no one will get any special preferential treatment because of a past position with the tribe or anything like that."



While the official investigation grinds on, the Internet sleuths have settled on a leading suspect: A professional poker player who was associated with ieLogic in the early days.

Their version of a "smoking gun" came from what they say is information on several of the cheating accounts leaked by company insiders. Aremdiscovered that one of the accounts, which used the screen name "sleepless," was established using the address of a Las Vegas residence formerly owned by the poker player.

Poker pros visit prime suspect

After Arem published that information, poker pro Greenstein posted on Two Plus Two that he had spoken with other players who confirmed that they had received fund transfers from the player via the "sleepless" account.

Greenstein and his stepson, Joe Sebok, also a poker pro, said the player agreed to tell his side of the story on the Poker Road radio show on July 16, but later backed out on the advice of his attorney.

Instead they arranged to speak to the player in his lawyer's presence — the only people believed to have done so. (Despite numerous attempts through multiple channels, msnbc.com was not able to contact the player.)

While the player told the men he couldn't answer many of their questions, they said he maintained his innocence and predicted that his name will be cleared when the investigation is complete.

Both Greenstein and Sebok, who as poker players put a lot of credence in gut instincts, said they arrived at the interview all but persuaded of the man's guilt, but left feeling less certain.

"We expected him to be dodgy, but he was just very comfortable discussing the situation as much as he could legally ... that once everything did come out, he would not be among the people incriminated," Sebok told msnbc.com.

Greenstein applied his mathematical perspective to the situation in a posting on Two Plus Two forum: "Before I talked to (him), I thought it was more than 95 percent likely that he was involved in cheating. ... Now I think it's more than 99 percent that he knows people who cheated well enough to transfer money with them, but I think it's less than 50 percent that he actually cheated or knew that the people were cheating at the time."

In an e-mail interview with msnbc.com, Greenstein said he believes it is likely that the KGC's investigation will confirm that the crime was carried out by an employee or employees of the former ownership of the site — whether it be ieLogic, Excapsa or eWorld Holdings —not the professional poker players who lent their expertise to the site's developers.

'A bunch of kids ... who jump to conclusions'

"There is no evidence to the contrary, except for some circumstantial evidence against (him) and a bunch of kids on Two Plus Two who jump to conclusions every time they are given a name," he said. "... I'm not saying these people (the poker pros) are clean. I don't know for sure. But just because someone's name is associated with a company where there was cheating, it doesn't mean that the person was involved."

Arem, however, said he remains unconvinced by the player's protestations of innocence. But he said he's open to the possibility that the circumstantial evidence leaked by the company insider could have been an attempt to shift the blame.

"(The player) has said that within three months all the information will come out and he'll be cleared," he said. "... In my mind, it's a tiny chance, but if I was the one being accused, I'd want someone to give me the benefit of the doubt."

http://www.vancouversun.com/news/Mike+Jong+worried+about+BCLC+casinos+after+money+laundering+rule+violations/3301820/story.html

Mike de Jong worried about BCLC's casinos after money laundering rule violations

Online gambling site also a concern
By Kim Bolan and Jonathan Fowlie, Vancouver Sun July 20, 2010 7:01 PM

Solicitor General Mike de Jong says he is concerned about the potential for organized crime to misuse B.C. casinos and online gaming after revelations that the B.C. Lotteries Corp. has been fined $670,000 by the federal agency that tracks money laundering and terrorist financing.

VANCOUVER - Solicitor General Mike de Jong says he is concerned about the potential for organized crime to misuse B.C. casinos and online gaming after revelations that the B.C. Lotteries Corp. has been fined $670,000 by the federal agency that tracks money laundering and terrorist financing.

De Jong said Tuesday he is reviewing reports he has just received about more than 1,000 violations by the lottery corporation of the federal Proceeds of Crime and Terrorist Financing Act.

"Obviously the facilities are there to administer to members of the public engaged in lawful gaming activities and if some of these early reports are true, yes, it is troubling," de Jong said. "Gaming is legitimate activity. It is regulated heavily. We expect both those providing the gaming actrivitesand those consumer and customers who use it to abide by the law."

And de Jong said that if police need to be more involved in assisting B.C. Lotteries in dealing with potential for abuse by crime groups, he is prepared to look at it.

"The law enforcement agencies do monitor and are involved on an on-going basis ," de Jong said. "Whether or not that has to change or be adjusted is something we are prepared to look at."

B.C. Lottery Corp. CEO Michael Graydon confirmed Tuesday that the Financial Transactions and Reports Analysis Centre of Canada - FINTRAC - issued the fine after BCLC misfiled 1,020 reports for transactions of over $10,000 in B.C. casinos. Graydon said the penalty also comes because BCLC missed a deadline to implement a program to target potential risks.

Graydon said the issues arose from an audit FINTRAC did between Oct. 28, 2009, and Nov. 19 2009.

He added that similar issues had been uncovered by FINTRAC before, but said this is the first penalty BCLC has faced on the matter.

"This has been a reoccurring problem through two audits," he said.

"That work we thought had been done, another audit was done and we found that in fact it wasn't."

Graydon claimed that improvements have been made since last fall and that the corporation has "been error free since June 1."

Of the 1,020 infractions, 419 were related reports being submitted late to FINTRAC.

"We then revised the mechanism to send them and unfortunately by the time we did that, and were aware they had been rejected, they were out of compliance from a timeline perspective," he explained.

Another 366 reports were rejected because of clerical errors, such as information that was improperly recorded on the documents.

Another 227 reports were rejected because casino workers did not record information in enough detail to satisfy legal requirements. For example, he said, a worker may have allowed someone to identify themselves simply as a "businessman" when regulations demand a greater level of detail.

"This is a training issue," he said."We have to continue to work with the people at our casinos to make sure that they understand this is the level of detail you need to get to."

He said the final eight improper reports came because people cashed out more than $10,000 without proper identification, and the casino did not do the follow-up required under the law.

"We instructed them they needed to get id and come back," he said. "Those reports were not submitted properly, but we've put new procedures in place for that."

The B.C. Lottery Corp. files up to 50,000 reports to FINTRAC every year.

Part of the fine came because B.C. Lotteries missed a deadline for creating "a geographic profiling and high-risk profiling and analysis system" that had been requested by FINTRAC and is now in place, he said.

"This system that FINTRAC works under was designed really for the banking community and is being applied to our industry. So we're having to make some very significant adjustments to training within the facilities to comply with more of a banking regime than an entertainment regime," he added.

On Tuesday, NDP critic Shane Simpson wrote to RIch Coleman, minister in charge of B.C. Lotteries, demanding a full review of FINTRAC's allegations.

And he said that the federal agency raised concerns about BCLC before.

"In 2008, the BCLC was criticized for inadequate reporting relatd to money laundering," Simpson said.

And he said BCLC board chairman John McLernon claimed at the time in a letter then minister John van Dongen that a number of steps were being taken to fix the problem.

McLernon said there were more incidents of suspicious transactions at B.C. casinos than in other Canadian jurisdictions.

He said the BCLC was going to "begin monthly reviews of all cheques issued by service providers to analyze trends and mulitple wins" and was to introduce special training for casino workers.

"BCLC will enhance its internal audit process to include a more frequent and systematic review of anti-money laundering procedures at casinos," the letter said.

He concluded saying that he had "no doubt in light of these comments that the BCLC will do all that is necessary to address these concerns."

Last year, the B.C. government increased the weekly limit that can be spent on online gaming to $9,999 from $120. Critics said the move was set subvert FINTRAC rules where transactions of $10,000 or more must be reported to Ottawa.

De Jong said Tuesday he didn't know how the limit was arrived at.

"It is the kind of thing that the gaming branch looks at. It is market-driven. But I can't give you a definitive answer," he said.

FINTRAC director Jeanne Flemming laid out some of the potential abuses of casinos in a speech last summer. But Flemming said that doesn't always happen.

"I will be frank. The casino sector needs to improve their compliance programs, and specifically the quality and quantity of their reporting in some areas. It is clear to us at FINTRAC that more can and should be done," Flemming said.

She said one review indicated half the casinos examiend "did not have an effective anti-money laundering training program in place."

"We also found that many casinos are struggling with reporting large cash transactions in accordance with the 24-hour rule. Casinos are required to report large cash transactions of $10,000 or more but if a series of smaller transactions are conducted within a twenty-four hour period that total $10,000 or more, this also triggers the obligation to report. Specifically, in some provinces this reporting rule was not complied with 95% of the time," she said.

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