



## Gambling

### BETonSPORTS ramifications - can the US authorities extradite you?

Shockwaves are running through the gambling industry following news of the arrest in the US at the week-end of Chief Executive David Carruthers on a stopover flight on the way home to Costa Rica, and the charging of founder Gary Kaplan with 20 felony violations.

11 Individuals and 4 corporations, referred to collectively in the indictment as "the Kaplan Gambling Enterprise" face 22 counts of racketeering, conspiracy, fraud and tax evasion, and a claim for forfeiture of assets worth at least \$4.5bn.

Other defendants named in the indictment include the brother and sister of Gary Kaplan. Two defendants are already in custody in Miami, one in Philadelphia. Warrants have been issued for the arrest of all defendants not currently in custody, including Gary Kaplan. The US Department of Justice has said that it will seek extradition of all defendants to St Louis for prosecution.

The indictment was filed relatively recently, on 1 June 2006. It lists violations through to April 2006, alleging that BETonSPORTS.COM and other gambling websites operated by the Kaplan Gambling Enterprise offered gamblers in the US illegal wagering on professional and college football and basketball, on an internet site and over a toll-free telephone. The US has also filed a civil case ordering BETonSPORTS to stop taking sports bets there and to return money held by US customers in their gaming accounts.

The shockwaves have manifested themselves by disarray in the market,

online gaming stocks listed in London falling by £1.2bn so far this week.

It is not surprising that BETonSPORTS had no prior knowledge of this indictment, or of the risk of arrest. The charges are the result of a lengthy joint investigation carried out by the Internal Revenue Service Criminal Investigation and the FBI.

A Bill proposing that internet gambling be outlawed is now due to go before the Senate, having been passed by the House of Representatives. In the present climate it should therefore be assumed that other online gambling businesses are more than likely the subject of similar investigations in the US. Company executives concerned face immediate arrest upon entry to the US if any indictment is brought and warrants for arrest issued. Once arrested in the US, a non-US citizen will be considered to be a flight-risk, and is unlikely to be granted bail pending trial.

Any individual wanted in the US to face criminal charges but who is based overseas will be liable to immediate arrest without warning, as soon as they set foot on US soil. As David Carruthers' case shows, a walk through the transit lounge of any airport without even clearing immigration is sufficient to trigger the

authorities to an individual's presence. If any individual is concerned about imminent travel to the US they should take legal advice before departure.

But for those executives staying at home, how safe are they from the clutches of the US? It is not known how many, if any members of the Kaplan Gambling Enterprise are present in the UK. Presence in the UK does not necessarily mean that any defendant to US proceedings is safe from being compelled to go to the US to answer charges. There is an extradition treaty between the UK and the US, and provided the allegations can be framed so that they mirror existing English offences, conspiracy to defraud for example, the UK will in principle comply with a valid request from the US.

Internet gambling remains a legal grey area in the US, with foreign online

operators risking a charge of violating or conspiring to violate the Wire Act if they are found to take bets from anyone in the US, even if those operators are licensed in another jurisdiction.

As has been shown recently in the case of the NATWEST THREE, the US will not hesitate to invoke the extradition treaty to get the UK to send its own citizens to the US to face charges. Furthermore, the US Department of Justice have already indicated in the instance of the Kaplan Gambling Enterprise that they are looking at extradition proceedings.

If you are concerned about extradition you should take legal advice from within the jurisdiction in which you are currently located, as different extradition arrangements will apply in relation to the US.

### Want more information?

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