

U.S. Department of Justice

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Judge Eileen R. Petersen, Chair
Casino Control Commission
5 Orange Grove
Christiansted, St. Croix
United States Virgin Islands 00820

Dear Judge Petersen:

Seasons greetings to you. I wanted to let you know that I was recently contacted by the Criminal Division of the U.S. Department of Justice in Washington, D.C. concerning the issue of Internet gambling in the V.I. As you know, the Department of Justice believes that federal law prohibits full forms of Internet gambling, including casino-style gambling, occurring within a state, commonwealth, territory, or possession of the United States and the Criminal Division has asked me to send you this letter.

While several federal statutes are applicable to Internet gambling, the principal statutes are Sections 1004 and 1952, of Title 3.0, United States Code, Section 1084 of Title 18, United States Code, prohibits one in the business of betting Or wagering from knowingly using a wire communications facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bats or wagers. Further, the Department of Justice does not agree with the decision in the In re MasterCard, 313 F. 3d 257 (5th Cir. 2002) , that Section 1084 is not applicable to casino-style wagering.

A second federal statute is Section 1952 of Title 18, United States Code, which prohibits traveling in interstate or foreign commerce, or using the mails, or using a facility in interstate or foreign commerce with intent to distribute the proceeds of an unlawful activity or otherwise promoting, managing, establishing, carrying on, or facilitating the promotion, management, establishment, or carrying on, of any unlawful activity and thereafter performing or attempting to perform such act. The term "unlawful activity" is defined in Section 1952 (b) to mean "any business enterprise involving

gambling . . . in violation of the laws of the State in which they are committed or of the United States."

Section 640 of the Virgin Islands legislation requires "[t]he provisions and activities authorized by this Article shall apply only to those jurisdictions where their laws permits (sic) the activities authorized and licensed." Nonetheless, we believe that the acceptance of wagers by gambling businesses located in the Virgin Islands from individuals located either outside of the Virgin Islands or within the Virgin Islands (but where the transmission is routed outside of the Virgin Islands) would itself violate federal law.

In addition to the actual gambling business being subject to prosecution under federal law, those persons or entities which knowingly assist the gambling business to operate would likewise be subject to prosecution. Section 2, of Title 18, United States Code, imposes criminal liability on those individuals or entities that aid, abet, counsel, command, induce or procure the commission of an offense against the United States.

At this time, it appears that no such gambling businesses are actually operating. Thus, violations of federal law would not be occurring at this time. However, I wanted to alert you to potential violations of federal law that may occur if this activity proceeds further. While we have full docket of investigations in other priority areas, nonetheless, if such activity takes place, we will be under a duty to investigate the activity and to initiate prosecutive action if the facts and law so warrant.

Please do not hesitate to contact me if you wish to discuss this issue.

Sincerely

David M. Nissman
United States Attorney