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HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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House Bills 2271 and 2438

\* \* \* \* \*

House Judiciary Committee  
House State Government Committee

Main Capitol Building  
Room 140, Majority Caucus Room  
Harrisburg, Pennsylvania

Wednesday, July 8, 1998 - 1:09 p.m.

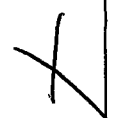
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BEFORE:

- Honorable Thomas Gannon, Majority Chairperson  
Judiciary Committee
- Honorable Paul I. Clymer, Majority Chairperson  
State Government Committee
- Honorable Jerry Birmelin
- Honorable Brett Feese
- Honorable Robert Reber
- Honorable Thomas Caltagirone, Minority Chairperson
- Honorable Kathy Manderino

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1998-081



1 ALSO PRESENT:

2

3 Brian Preski, Esquire  
Majority Chief Counsel

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5 Judy Sedesse  
Majority Administrative Assistant

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7 David Bloomer  
Majority Research Analyst

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1                   CHAIRPERSON GANNON: The Joint Committee  
2 of the Judiciary Joint Committee hearings of the  
3 Judiciary and State Government Committee will  
4 come to order. The purpose of this hearing is  
5 public hearings on House Bill 2271 and 2438  
6 dealing with Internet gambling.

7                   Just briefly, both Representative Clymer  
8 and myself have concerns about the explosion of  
9 gambling on the Internet. The Internet, as you  
10 know, is a system that's accessible very easily by  
11 people of all ages.

12                   My particular concerns are that we have  
13 young children who can access the Internet and  
14 are exposed to gambling at just too young of an  
15 age, and I think that's inappropriate.

16                   In addition, if you are gambling on the  
17 Internet, you don't know who is on the other side  
18 of that table, what the odds are, and whether  
19 you're playing against somebody or a house that's  
20 honest or dishonest, whether they're scrupled or  
21 unscrupled.

22                   And finally, there's no regulation and  
23 there's no opportunity for the taxpayers to  
24 benefit from that type of business enterprise  
25 that's taking place in Pennsylvania through the

1 cyber casinos.

2 That pretty much highlights my major  
3 concerns, and I know Representative Clymer  
4 probably shares every one of those and maybe some  
5 additional concerns about the issue. And I'll  
6 just let him make additional remarks before we  
7 begin the hearings.

8 REPRESENTATIVE CLYMER: Thank you,  
9 Mr. Chairman. And I'll try to go through my  
10 remarks as quickly as possible. But I thank you  
11 and the Members of the Committee for giving me  
12 the opportunity to testify today regarding the  
13 issue about which we both have grave concerns:  
14 Internet gambling.

15 As we both know, legislation has been  
16 introduced and I have House Bill 2438 which  
17 prohibits Internet gambling in Pennsylvania.  
18 Internet gambling is already big business.

19 At present, it is estimated that two  
20 hundred to three hundred million dollars per year  
21 are spent on online betting. Internet gambling  
22 is alive, it's growing, and it's going to become  
23 a phenomenon if it's not already in fact, says a  
24 Las Vegas odds maker Frank "Lefty" Rosenthal  
25 during an April, 1998, Nightline appearance. He

1 appeared on that program called Betting Without  
2 Borders.

3 Gambling consultants  
4 Christiansen/Cummings Associates estimates that  
5 potential global revenues from online gambling  
6 could reach almost \$8 billion by the year 2001.  
7 As we meet here today to explore Internet  
8 gambling, we are entering relatively uncharted  
9 waters.

10 Despite the Federal Interstate Wire Act  
11 which prohibits the use of wire communications  
12 such as telephone lines for sports betting across  
13 state lines and a recent indictment under the  
14 statute of 14 owners and managers of offshore  
15 gambling companies, online betting activity  
16 remains largely unregulated.

17 Testifying before the Subcommittee on  
18 Crime before the U.S. House Committee on the  
19 Judiciary, Bernard Horn, Director of Political  
20 Affairs of the National Coalition Against  
21 Gambling Expansion, notes that the U.S. Justice  
22 Department is not enforcing this federal statute.

23 In a January 31st, 1998, New York Times  
24 article, Justice Department spokesman John  
25 Russell said in reference to enforcement of

1 Interstate Wire Act, If casinos are outside the  
2 United States, there's not a thing we can do  
3 about it except prevail upon the host government.

4 Nearly all of the estimated hundred and  
5 forty active online casino operations are based  
6 outside of the United States in places like the  
7 Caribbean, Central America, where they operate  
8 legally. The online gambling customer is truly  
9 rolling the dice when he or she places a bet at a  
10 cyber casino.

11 According to Frank Fahrenkopf, President  
12 of the American Gaming Association, there's no  
13 guarantee that if you win at Internet gambling  
14 you are going to get your money. Bernard Horn  
15 agrees. He notes that there is no way to know  
16 whether an online casino is treating its  
17 customers fairly.

18 A March 22, 1998, Pittsburgh Tribune  
19 Review article written by Mark Houser points to  
20 an online gambling forum which contains a number  
21 of complaints from former customers of  
22 Interactive Gaming of Blue Bell, Montgomery  
23 County.

24 The complaints allege that the company  
25 has not paid out thousands of dollars in Internet

1 gambling winnings. Progress on federal  
2 legislation prohibiting Internet gambling  
3 appears to have slowed in recent months due in  
4 part to lobbying from a variety of interest  
5 groups, including the horse racing industry and  
6 computer businesses.

7           Although the United States Senate  
8 Committee on Judiciary reported Senate Bill 474,  
9 known as the Internet Gambling Prohibition Act of  
10 1997, in October of 1997 a House Committee on the  
11 Judiciary may soon consider similar action on a  
12 House companion bill, Congressional action on  
13 that very important issue remains uncertain.

14           For your information, Senate 474,  
15 sponsored by Senator John Kyl of Arizona amends  
16 the Federal Criminal Code to prohibit and set  
17 penalties for: (1) placing, receiving, or  
18 otherwise making a bet or wager via the Internet  
19 or any other interactive computer service in any  
20 state; and (2), engaging in the business of  
21 betting or wagering through the Internet or any  
22 such service.

23           The bill also grants the U.S. District  
24 Courts original and exclusive jurisdiction to  
25 prevent and restrain violations of this Act and



1       authorizes the Attorney General to institute  
2       proceedings under this section.

3               Additionally, Senate Bill 474 directs  
4       the Secretary of State to: (1), negotiate with  
5       foreign countries to conclude international  
6       agreements that would enable the United States  
7       to enforce specified provisions of this Act  
8       with respect to persons engaging in violations  
9       from outside the United States; and (2), report  
10      on the progress of such negotiations to specified  
11      congressional officials.

12              Although the courts have begun to weigh  
13      in on the issue of online betting, we have a long  
14      way to go before we have an Internet gambling law  
15      of the land.

16              In this environment of uncertainty and  
17      until federal legislation prohibiting Internet  
18      gambling is enacted, the states must act.  
19      After all, the states historically have regulated  
20      gambling. That's why I have introduced House  
21      Bill 2437 and Representative Gannon has  
22      introduced his piece.

23              House Bill 2438 adds a section to the  
24      Crimes Code prohibiting gambling by computer.  
25      The use of a computer or other communication

1 facility for the transmission or receipts of bets  
2 or wagers would be a misdemeanor of the first  
3 degree when the person placing the bet or wager,  
4 the computer receiving the bet or wager, or any  
5 communication facility used in transmitting the  
6 bet or wager is located in Pennsylvania.

7 This new offense would not apply to any  
8 activity presently authorized by the Race Horse  
9 Industry Reform Act or the State Lottery Law.  
10 Violation of the prohibition against gambling by  
11 computer would result in a seizure by and  
12 forfeiture to the Commonwealth of any computer or  
13 communication facility used in the commission of  
14 the offense.

15 The Bill grants the Attorney General  
16 concurrent prosecutorial jurisdiction with the  
17 District Attorney and would empower the Attorney  
18 General to refer to the District Attorney any  
19 computer gambling violation.

20 We are familiar with the litany of  
21 social ills caused by gambling. I am concerned  
22 that the very nature of the Internet -- its easy  
23 and virtually universal access, it's split-second  
24 response time, the anonymous nature of Internet  
25 communication, and the fact that it provides a

1 open door to fraud -- will intensify the  
2 proliferation of this social ills throughout the  
3 state and this nation.

4 Testifying before the Subcommittee on  
5 Crime of the United States House Committee on the  
6 Judiciary, Bernard Horn commented extensively on  
7 the social costs of Internet gambling.

8 "The Internet not only makes highly  
9 addictive forms of gambling easily accessible to  
10 everyone, it magnifies the potential  
11 destructiveness of the addiction" because it  
12 allows the individual gambling addict to destroy  
13 him or herself in complete privacy and without  
14 any opportunity for intervention.

15 The growth of underage gambling may be  
16 exacerbated by the Internet gambling as well. In  
17 a completely unregulated environment, gaining  
18 access to an online casino may be as easy as  
19 borrowing a parent's credit card.

20 Internet gambling not only brings  
21 the casinos more close to home, it brings  
22 gambling into the home. A person need not get  
23 into his or her car or bus to go to Atlantic  
24 City.

25 He or she can sit in her or his house in

1 complete anonymity and outside the system of  
2 legal and social checks and balances which can  
3 serve to curb some problem gambling behavior and  
4 gamble his or her way into financial ruin.

5 Research indicates that the prevalence  
6 of bankruptcies increases with the proximity to a  
7 casino. With Internet gambling, one's house  
8 becomes the casino.

9 Dr. Howard J. Shaffer, the Director of  
10 the Harvard Medical School Division on Addiction  
11 studies, argues that Internet gambling will  
12 multiply the problem of gambling addiction.

13 He likens the impact of technological  
14 advances in administering drugs on drug abuse to  
15 the impact of technological advances on gambling  
16 addiction.

17 "With new technological advances with  
18 Internet gambling, with telephone and television  
19 interactive gambling, we're likely to see many  
20 more pathological consequences to gambling," he  
21 suggested in an October, 1995, lecture.

22 In addition to exacerbating the many  
23 social ills caused by gambling generally, online  
24 casinos create a unique problem. Internet  
25 gamblers will be rolling virtual dice or spinning

1 virtual roulette wheels.

2 How can the fairness or the randomness  
3 of such games be monitored? Also, Bernard Horn  
4 believes that Internet gambling will provide a  
5 perfect front for organized crime activities.

6 "We're never going to know for certain  
7 who owns an Internet gambling site based in  
8 another country," Horn says. Horn also points  
9 out that, unlike traditional gambling  
10 enterprises, Internet casinos are not likely to  
11 hire numerous employees.

12 Internet gambling has the potential to  
13 take huge sums of the entertainment/retail  
14 economy -- sums of the economy all over the  
15 nation without creating any replacement jobs.

16 The debate over Internet gambling will  
17 no doubt continue in Washington and in  
18 state houses and courts across the nation. Two  
19 distinct positions on the issue have emerged:  
20 Prohibit Internet gambling or regulate the  
21 activity.

22 Supporters of regulation argue that laws  
23 prohibiting Internet gambling are virtually  
24 unenforceable given the international nature of  
25 the online casino businesses. Others suggest

1 that the outright prohibition of Internet  
2 gambling will encourage fraud and organized crime  
3 involvement in online wagering.

4 Given Internet gambling's likely  
5 contribution to increases in personal bankruptcy,  
6 fraud, and crime, gambling addiction and underage  
7 gambling and its potential drain on the state and  
8 national economy, I support a complete  
9 prohibition of Internet gambling.

10 I believe enactment of House Bill 2438  
11 would be an important step toward this goal.

12 Thank are for your time and consideration:

13 CHAIRPERSON GANNON: Thank you,  
14 Representative Clymer. Our first witness  
15 today -- other than comments by Representative  
16 Clymer, our first witness is Professor David  
17 Post, Professor of Law at Temple University.  
18 Professor Post.

19 PROFESSOR POST: Thank you.

20 CHAIRPERSON GANNON: You may proceed  
21 when you're ready.

22 MR. POST: Thanks very much. First of  
23 all, I want to thank the Committee for inviting  
24 me here today. My name is David Post, I'm  
25 Associate Professor of Law here at Temple in

1 Philadelphia. I'm also co-director of the  
2 Cyberspace Law Institute.

3 Let me get quickly to the point than  
4 beat around the bush. I think the legislation  
5 that the House is considering is unwise. It is  
6 unwise because it will not accomplish its  
7 purpose, which I assume is to reduce or to  
8 eliminate the ability of Pennsylvania residents  
9 to gambling on the Internet.

10 So we needn't even talk really about  
11 whether or not that's a good purpose or bad  
12 purpose. Regardless of how one feels about that,  
13 these bills will be entirely ineffective at  
14 achieving that in the first place.

15 The two bills act quite differently.  
16 House Bill 2271 would for the first time make it  
17 a criminal offense for someone in the privacy of  
18 their own home to place wagers. That is not now  
19 a violation of Pennsylvania law as I understand  
20 it, nor is it now a violation of federal law as I  
21 understand it.

22 There are serious questions I think  
23 about the personal privacy implications of this  
24 bill, the monitoring of personal activity, again,  
25 in the privacy of one's own home or office that

1 would be required in order to enforce this law.

2 But in any event, I think it's worth  
3 pointing out that this prohibition against this  
4 kind of individual activity can be easily  
5 evaded. I can go to my office now and  
6 reconfigure my machine in about two minutes such  
7 that my access to any Internet gambling sites  
8 will be completely undetectable.

9 This is like prohibiting drug use, which  
10 is difficult in the best of circumstances as we  
11 know, where the drugs can be made completely  
12 invisible.

13 Trying to enforce those kinds of  
14 prohibitions will be extremely difficult and  
15 extremely costly. Costly both in terms of law  
16 enforcement time and effort and costly in terms  
17 of the incurrence (phonetic) upon the personal  
18 privacy of Pennsylvania residents that will be  
19 required.

20 The other bill, House Bill 2438, takes a  
21 different approach. It makes it illegal, in  
22 effect, for anyone to offer online gambling  
23 services to Pennsylvania residence. It affects  
24 those who are in the business of betting and  
25 wagering and prohibits their activities in



1 Pennsylvania.

2 If House Bill 2438 passes, I would  
3 certainly agree that there will almost certainly  
4 be no machines in Pennsylvania that are offering  
5 gambling services; that is, web -- Pennsylvania  
6 web servers that are gambling sites.

7 But it's crucial to point out that as  
8 far as the users in Pennsylvania are concerned,  
9 they are completely indifferent to where those  
10 servers are located. That has, in effect, been  
11 designed into the Internet. It is the way that  
12 it operates.

13 They will be easily able to continue  
14 gambling on servers that are found elsewhere,  
15 servers that are located in places where it is  
16 legal to gamble. That includes certain states  
17 within the union -- Nevada, obviously -- Indian  
18 reservations, and countries -- other countries of  
19 the world that permit gambling operations to take  
20 place.

21 Users will not care and, in fact, will  
22 probably not know that they are dealing with an  
23 operation that's in Pennsylvania or in Nevada or  
24 in Belize.

25 So the only way that House Bill 2438

1 really has an effect on reducing the availability  
2 of gambling to Pennsylvania residents is if it is  
3 applied extraterritorially, if it is applied  
4 against gambling operations that are located  
5 outside the boundaries of Pennsylvania.

6 And whatever the merits of  
7 extraterritorial application of the law  
8 generally, in this context I think it's  
9 unconstitutional. States may not export their  
10 own regulations onto commercial activity that is  
11 occurring elsewhere.

12 In my little outline of testimony I have  
13 a quote -- I could pull out lots of  
14 others -- from the Supreme Court: A statute that  
15 directly controls commerce occurring wholly  
16 outside the boundaries of a state exceeds the  
17 inherent limits of the enacting state's authority  
18 and is invalid regardless of whether the  
19 statute's extraterritorial reach was intended by  
20 the Legislature. The critical inquiry is whether  
21 the practical effect of the regulation is to  
22 control conduct beyond the boundaries of the  
23 state.

24 In other words, to be effective, HR 2438  
25 has to do just that. It has to control conduct

1       beyond the boundaries of the state -- the  
2       Commonwealth of Pennsylvania.

3               That the Supreme Court has held time and  
4       time again is something that under our  
5       constitutional scheme at least, it may not do.  
6       The bottom line is that this is not a problem.

7               And to the extent Representative Clymer  
8       identified many ill consequences of Internet  
9       gambling, it may be considered a problem; but it  
10      is not a problem that can be attacked in this way  
11      at the state level.

12              There may be things that the State can  
13      do here to promote greater awareness of the ills  
14      of online gambling, perhaps to provide  
15      information about which sites are, in fact,  
16      fraudulent, which sites are defrauding  
17      Pennsylvania residents of their money online,  
18      which ones are or are not run honestly.

19              But prohibition of this activity is  
20      simply not a workable approach at the state  
21      level. This will require national or, more likely,  
22      international action if it is really going to be  
23      addressed.

24              Those are -- that's the substance of my  
25      comments. I'd be happy to answer questions if

1 anyone on the Committee has them.

2 REPRESENTATIVE GANNON: Representative  
3 Caltagirone.

4 REPRESENTATIVE CALTAGIRONE: I guess  
5 this is similar to the drug problem we're having.  
6 We can't stop it coming in now, can we?

7 MR. POST: That's correct. And it is  
8 perhaps a good deal harder because it's easier to  
9 manipulate, if you will, the electrons that are  
10 moving around the Internet, make them disappear,  
11 than it is to make the drug paraphernalia or the  
12 drugs and sales disappear. It's more difficult.

13 REPRESENTATIVE CALTAGIRONE: You deal  
14 with the Internet, and that's your forte. Is  
15 there any blocking devices or anything on the  
16 drawing boards technologically that could be  
17 utilized to stop such transmissions in mid-air?

18 MR. POST: Well, that's a very good  
19 question. There are certainly -- there is  
20 certainly software similar to -- there is a  
21 software, as you're probably aware, that allows  
22 rating of Internet sites for indecency, for  
23 example, that parents can install on their  
24 computers and which, in effect, say if something  
25 has been rated "X" by this particular rating

1 agency, do not allow that site to be displayed on  
2 my computer.

3 Internet service providers can install  
4 that as well. That software can be used to rate  
5 sites for any reason: Because they provide  
6 gambling services, for example.

7 I'm not aware of any efforts right now  
8 to actually go out and do the rating, that is, to  
9 label sites using this software and this  
10 language, label sites as to whether or not they  
11 provide gambling services; but it, I think, could  
12 be done.

13 It perhaps would be another thing that,  
14 in effect, the State could do to provide that  
15 information in the form of this software and say  
16 parents can, if we're interested in keeping our  
17 children away from these sites -- and many people  
18 I'm sure are -- that parents can have access to  
19 this, can install this on their machines and be  
20 relatively secure that their children will not be  
21 able to access gambling sites. It's not  
22 currently in existence, but I think it could be.

23 REPRESENTATIVE CALTAGIRONE: In your  
24 testimony, you alluded to the fact that the  
25 privacy of one own's home, it behooves the

1 government to step in and say what we can or  
2 cannot do, what we can or cannot access whether  
3 or not it's gambling or whatever else you want.  
4 Do you feel that that's crossing the line with  
5 this type of legislation?

6 MR. POST: It seems to me -- I guess  
7 it's not for me to say in a way. But the purpose  
8 of my testimony is to draw attention to the fact  
9 that there are some serious privacy implications  
10 that people should be aware of if something like  
11 2271 were to become law.

12 To enforce that prohibition, that  
13 would -- first of all, it would instantly  
14 make -- I would point out it would instantly  
15 make millions of people in Pennsylvania violators  
16 of the law. It prohibits the use of the Internet  
17 for betting or wagering.

18 I venture to say there are millions of  
19 people who use their Email accounts at work, for  
20 example, to participate in the office betting  
21 pool for the NCAA Tournament. That would now be  
22 for the first time a crime against the  
23 Commonwealth of Pennsylvania.

24 To enforce those kinds of prohibitions  
25 because one can do these things in one's own home

1 or in one's own office with the door closed would  
2 require a level of monitoring of individual  
3 computer activity, would require people to, I  
4 guess, keep track of the sites that they visited  
5 or require Internet service providers to keep  
6 track of the sites that their subscribers have  
7 been visiting.

8 I think that's a serious incursion.  
9 Maybe that's an incursion into personal privacy  
10 that the people of Pennsylvania are willing to  
11 bear, but they should at least be aware of it  
12 before they go forward.

13 REPRESENTATIVE CALTAGIRONE: And the  
14 last and final point, the Interstate Wire  
15 Act -- and you alluded to that in your  
16 testimony -- is whether or not any state can  
17 control the transmissions that are coming from  
18 either within or outside the territory of the  
19 United States is something that the federal  
20 government would have to deal with as opposed to  
21 any of the states.

22 Because how could we control the  
23 transmissions coming in from out of state into  
24 Pennsylvania as a state?

25 MR. POST: You restated probably better

1       than I did the fundamental question of the  
2       legislation. I think the answer is that you  
3       really cannot. Whether you could do so as a  
4       technical matter we can argue about in some other  
5       forum perhaps.

6                But as a legal matter, within the  
7       federal union at least, that is one of the things  
8       that the Constitution really prohibits the State  
9       of Pennsylvania and all the states from doing;  
10      that is, reaching out over their borders and  
11      saying you cannot engage in this commercial  
12      activity because it is illegal here.

13               That is a violation of the Commerce  
14      Clause that is left to national legislation. If  
15      people are concerned, then I certainly understand  
16      why people might be concerned about Internet  
17      gambling.

18               The proper forum for that really is  
19      Congress or international agreements between  
20      sovereign states.

21               REPRESENTATIVE CALTAGIRONE: Thank you,  
22      Professor. Thank you, Mr. Chairman.

23               CHAIRPERSON GANNON: Representative  
24      Clymer.

25               REPRESENTATIVE CLYMER: Thank you, sir,



1       for being with us today and joining us in this  
2       very important issue. Pennsylvania has consumer  
3       fraud laws. We don't have casino gambling in  
4       Pennsylvania. When these Internets come in and  
5       they say, gamble, you can do it in Pennsylvania,  
6       would you not suggest then the Attorney General  
7       can go against them and say that's fraud; you're  
8       telling people that they can gamble in the state  
9       when they can't? Wouldn't that be a violation of  
10      our consumer fraud laws?

11               MR. POST: I think there is a serious  
12      question to the extent that that -- let me back  
13      up for a second. It is currently impossible if I  
14      have an Internet casino in a place where it is  
15      legal, in a place where it is registered, I'm  
16      choosing to use the Internet for distributing  
17      these services, for obvious reasons, it is  
18      impossible for me to control the movement of the  
19      information I provide into or out of  
20      Pennsylvania.

21               Whether people are coming to my site who  
22      are Pennsylvanians or not is simply not something  
23      that I can really detect. That's not -- I get  
24      information about their service provider perhaps,  
25      but not about where they are located.

1           So if Pennsylvania were to, in fact,  
2 reach out under its consumer protection statutes  
3 or its antigambling statute or otherwise to  
4 providers of that information in other states, I  
5 think there is a very serious question about the  
6 constitutionality of these actions because those,  
7 unlike physical goods, it's one thing to say you  
8 cannot -- you may not have a presence in  
9 Pennsylvania, you may not ship your goods in  
10 here, you may not open up a store front here, you  
11 may not contract with Pennsylvania residents  
12 unless you abide by the laws of Pennsylvania  
13 because in that case, those individuals can avoid  
14 Pennsylvania if they don't want to abide by  
15 Pennsylvania's laws. At least that's the theory.

16           On the Internet, you really cannot do  
17 that. The casino provider is just getting, as I  
18 said, electrons coming from he knows not where.  
19 I think the extraterritorial application of  
20 Pennsylvania's consumer fraud laws or other laws  
21 in that instance is highly suspect. I do.

22           REPRESENTATIVE CLYMER: Recently -- you  
23 may not be aware of this -- but in the state  
24 of Missouri, the Attorney General, Jeremiah  
25 Dickson has obtained an indictment against

1 Interactive Gambling and Communication,  
2 Incorporated, which is right in Blue Bell.

3 And one of the things that they have  
4 stated was that this company had defrauded  
5 Missourians into thinking that Internet gambling  
6 was legal when it was not. And this company  
7 accepted the bets from the people in Missouri.

8 Now, that's in the legal process at the  
9 present time. There's an appeal before the  
10 Superior Court of Pennsylvania for the  
11 extradition of the president and CEO of that  
12 company to Missouri.

13 But do you not feel that this is a good  
14 test case to determine whether or not a state  
15 like Missouri has a right to say whether or not  
16 Internet gambling is legal?

17 MR. POST: Yeah, I think it is actually  
18 a very interesting test case. There's another  
19 one in Minnesota. I'm aware of efforts by a  
20 State Attorney General to do this. On occasion  
21 they have been sustained and on occasion they  
22 have been struck down as unconstitutional.

23 I think that is -- I'm not suggesting  
24 that, you know, I have received the tablets from  
25 Mt. Sinai on the drive here and that I know the

1 answer to a difficult constitutional question.  
2 I'm giving you my opinion. Others may differ.

3 Let me make one point though quite apart  
4 from the constitutional issue. If  
5 Pennsylvania -- if Missouri reaches out to a  
6 Pennsylvania business that is doing business in  
7 Pennsylvania and is presumably lawful and  
8 licensed by the Commonwealth of Pennsylvania and  
9 says because you are violating the laws of  
10 Missouri we can reach into Pennsylvania even  
11 though you may not be violating laws in  
12 Pennsylvania and shut you down, I think the  
13 reciprocity of that kind of extraterritorial leap  
14 is very troublesome to people.

15 I think we would feel very differently  
16 if lots of the other states or other countries  
17 for that matter started to say that we can  
18 prosecute Pennsylvania businesses because they  
19 violate our laws.

20 And we should be hesitant to take that  
21 position in reverse to say we can prosecute your  
22 businesses because you are violating our laws.

23 REPRESENTATIVE CLYMER: Well, but isn't  
24 it true that the Attorney General, be it Mike  
25 Fisher here in Pennsylvania or elsewhere, they

1 are there to protect the welfare and the  
2 well-being of the citizens of their state and if  
3 they see a violation taking place that violates  
4 their crime code, is it not their duty and their  
5 right to step forward and say, We are going to  
6 take action against whoever it is because the  
7 citizens of that state are paramount; and,  
8 therefore, I would think in Pennsylvania if we  
9 pass this law and there was a company in Las  
10 Vegas that was transmitting Internet gambling  
11 into Pennsylvania that our Attorney General -- I  
12 know he would -- would take the appropriate  
13 action and say you don't do it or we're going to  
14 take you to court.

15 MR. POST: I guess I would suggest to  
16 you that the business in Las Vegas would say,  
17 What do you want us to do? How can we -- we  
18 can't tell where people are coming from. We  
19 don't know that we're necessarily going  
20 into -- the only thing we can do is not be on the  
21 Internet.

22 And we don't think that is a decision  
23 that the people of Pennsylvania can impose upon  
24 us because we are located in Nevada. And the  
25 same argument obviously would go for someone in

1 Belize or Costa Rica or Singapore.

2 The Internet is a difficult phenomenon.  
3 I'm not pretending otherwise. I think the  
4 questions you raise are very difficult ones and  
5 go to the heart of how this new place is going to  
6 be regulated and is going to be governed.

7 I think my answer to your question is  
8 that to the extent that the Attorneys General of  
9 these states and their counterparts in foreign  
10 countries do take that position, we have a fairly  
11 chaotic state, a fairly chaotic environment. We  
12 have a place where my web site is suddenly under  
13 the law of every jurisdiction where the Internet  
14 reaches.

15 That sort of can't be sensible. I don't  
16 think that's a way to have an orderly development  
17 of this new medium. If my business operation on  
18 the web site is suddenly subject to the laws of  
19 Nevada and the laws of Costa Rica and the laws of  
20 the United Kingdom and the laws of the District  
21 of Columbia, et cetera, et cetera, et cetera,  
22 simply because I'm on the Internet, I don't think  
23 that is an orderly way for this medium to  
24 develop.

25 REPRESENTATIVE CLYMER: One more comment

1 and then, sir, you can respond if you want; it  
2 doesn't matter. But I just want to leave with  
3 one more comment.

4 One of the concerns that both Chairman  
5 Gannon and myself do share is that reports are  
6 coming out not only from interested groups about  
7 their fears of what the Internet could do to the  
8 people of Pennsylvania but now it's impacting on  
9 the NC double A.

10 Certainly we take pride in our athletes;  
11 and yet, if this whole Internet gambling is to  
12 expand, would it not touch even the people that  
13 we enjoy watching them play sports?

14 There is concern that if this becomes so  
15 routine and the State takes no action, just sits  
16 back and does nothing, that this could have an  
17 impact on our athletes across the nation. And  
18 how tragic that would be if we would have  
19 athletes who would be found gambling innocently  
20 on the Internet because everyone else was doing  
21 it.

22 The other thing is in Belize -- you had  
23 mentioned about Belize having the authority to  
24 create -- to legalize Internet gambling. It was  
25 interesting, but it's alleged from a news article

1       that I received I believe out of Las Vegas that  
2       the company in Las Vegas that does Internet  
3       gambling wrote the laws for the government of  
4       Belize to allow them -- to allow this company  
5       then to go to the country of Belize and to  
6       transmit their Internet gambling from Belize into  
7       the United States.

8               I thought that was sort of interesting.  
9       With that, I end my comments; and you may  
10      respond if you so desire.

11             MR. POST: Let me just say that I think  
12      you raise important problems about the scope of  
13      Internet gambling. The question is, What is the  
14      best way to deal with those problems?

15             My suggestion is that this legislation  
16      is not going to be effective at dealing with that  
17      legislation -- at that problem for the  
18      reasons that I discussed. That this and other  
19      problems are national and international in scope.

20             The second point I would just want to  
21      emphasize I guess is that it's probably not fair  
22      to say the State should sit back and do nothing.  
23      If, with reference to the earlier question, the  
24      State is in a position to provide information to  
25      its citizens about the evils of Internet



1 gambling, about the opportunities for fraud on  
2 the Internet, that could go a long way to  
3 reducing some of the -- it will not eliminate  
4 Internet gambling.

5 That is not something that we can do  
6 sitting in this room. It can go a long way  
7 towards eliminating many of the ills that you  
8 speak of and might be a more productive way for  
9 the Legislature to proceed.

10 CHAIRPERSON GANNON: Representative  
11 Manderino.

12 REPRESENTATIVE MANDERINO: Thank you,  
13 Mr. Chairman. Professor, this was not part of  
14 your testimony; but I am wondering, because this  
15 is something I'm reading in the analysis of the  
16 legislation that we were provided, if you are  
17 familiar with the Interstate Wire Act, which is  
18 described to me as prohibiting businesses from  
19 transmitting wagers over telephone lines?

20 MR. POST: Yes.

21 REPRESENTATIVE MANDERINO: Can you give  
22 me a little bit more -- I mean, is that an  
23 accurate --

24 MR. POST: Basically, yes --

25 REPRESENTATIVE MANDERINO:

1 -- description?

2 MR. POST: -- that is a description of  
3 the Interstate Wire Act. It applies again as HR  
4 2438 does; it applies to business. You  
5 cannot -- you are violating the law of the United  
6 States if you have, let us say, a gambling  
7 operation and you take telephone bets, you are  
8 violating the Interstate Wire Act if you do that.

9 You are not violating the -- the person  
10 making the call is not in violation of federal  
11 law. Now, this is an how many angels can dance  
12 on the head of a pin kind of problem that if we  
13 were in a room full of law professors we could  
14 debate about that. But that is my reading of the  
15 bill, and no one has ever been prosecuted for  
16 that.

17 REPRESENTATIVE MANDERINO: That was  
18 my -- 2438 deals with, as you just differentiated,  
19 the business of running a gambling operation  
20 whereas 2271 deals with the placing of a bet --

21 MR. POST: Correct.

22 REPRESENTATIVE MANDERINO: -- to a  
23 gambling institution.

24 MR. POST: Right.

25 REPRESENTATIVE MANDERINO: Now, I want

1 to talk about both of those within the context of  
2 this Wire Act and within the context of legalized  
3 gambling in Pennsylvania.

4 In Pennsylvania, we have a couple forms  
5 of legalized gambling. One is the lottery;  
6 another is horse raising. In the horse racing  
7 industry, we allow simulcast telephone bettings  
8 where I can set up an account with the  
9 horse -- with the -- I guess I set up the account  
10 at the track, for example; I prepay my money into  
11 the account; and I can sit on my couch in my  
12 living room and watch the simulcast television  
13 and call in my bet before the horse race against  
14 my account that I have preestablished.

15 Now, why can I do that today in  
16 Pennsylvania? I assume something in Pennsylvania  
17 law allows me to do that vis-a-vis the horse  
18 racing industry and why is that not a violation  
19 of this federal interstate act or is it because  
20 I'm doing this wholly within my own state --

21 MR. POST: That is a very good question.  
22 And I have learned in years of teaching that the  
23 worst thing I can do is answer a  
24 question -- pretend I know the answer to a  
25 question when I don't have it. I'll get in

1 trouble if I do that.

2 I'm not sure why that is not a violation  
3 of the Interstate Wire Act. My educated guess is  
4 that --

5 REPRESENTATIVE MANDERINO: Does the  
6 Interstate Wire Act have to cross state lines --

7 MR. POST: It does have to --

8 REPRESENTATIVE MANDERINO: -- so as long  
9 as I'm a Pennsylvanian placing a bet at a  
10 Pennsylvania track, the Interstate Wire Act  
11 wouldn't come into play?

12 MR. POST: That is certainly correct.  
13 My -- that is, that there must be interstate  
14 communication for the Interstate Wire Act to  
15 apply in the first place. I'm not certain that  
16 that explains the whole story, actually.

17 I think that if I were to put -- have an  
18 account at a Delaware track and make the phone  
19 call from Pennsylvania, then I am still exempt  
20 from prosecution under the Wire Act.

21 And my guess is that there is a specific  
22 provision buried in the Code that exempts things  
23 that are licensed by the individual states; but  
24 I'm not sure about that. Good question, and I  
25 can try to find that out for you, if you'd like.

1                   REPRESENTATIVE MANDERINO:  Maybe  
2           somebody else who will testify later might have  
3           information too.  I guess the -- let's put the  
4           Internet aside for a minute.  I'm a mail-order  
5           company and I do business across the country,  
6           wherever I send my catalogs.

7                   And I as a Pennsylvanian call such and  
8           such mail-order catalog and place an order and  
9           give them my credit card information or send them  
10          a check or whatever and they take my money and  
11          they don't send me my merchandise.

12                   As a Pennsylvania resident, what  
13          recourse do I have now, if you know, under  
14          Pennsylvania law?  What actions if any can the  
15          Attorney General of Pennsylvania take if this is  
16          a frequent problem with X-Y-Z mail-order company  
17          and people from Pennsylvania getting their  
18          merchandise?

19                   MR. POST:  Well, you have a number of  
20          recourses under Pennsylvania law.  You have been  
21          defrauded by assumption.  There is an action for  
22          fraud in Pennsylvania law.  There is a  
23          Pennsylvania Consumer Protection Statute that  
24          empowers the Attorney General to act in cases of  
25          consumer fraud.

1           You can because of the act of sending  
2           the merchandise into Pennsylvania, United States  
3           law says that that merchant has, in effect,  
4           purposefully availed itself of the privilege of  
5           conducting business in Pennsylvania and therefore  
6           is subject to the jurisdiction of the  
7           Pennsylvania courts.

8           So you can march down the street to the  
9           courthouse, file suit against this -- the owner  
10          of this business and obtain recourse. They will  
11          be subject to the jurisdiction because they have  
12          been doing business with Pennsylvanians. Now,  
13          one might say, well, isn't the same true about  
14          the Internet --

15          REPRESENTATIVE MANDERINO: I was getting  
16          you there.

17          MR. POST: I understand that. And the  
18          difference about the Internet is that it is much  
19          harder to sustain the fiction that the proprietor  
20          of the business has purposefully availed itself  
21          of the privilege of conducting business in  
22          Pennsylvania because they can't know where their  
23          customers are coming from.

24          They can't screen. They can't say, I  
25          don't want to send -- a business in the real

1 world can say I'm not going to send catalogs to  
2 Pennsylvania. I'm not going to send merchandise  
3 to Pennsylvania. I'm not going to do business  
4 with people in Pennsylvania because I don't like  
5 their fraud law, okay, and I don't want to be  
6 subject to it.

7 You can't do that on the Internet. I  
8 can't tell where people are coming from on the  
9 Internet.

10 REPRESENTATIVE MANDERINO: Now, you have  
11 two assumptions in that; but I just want to make  
12 sure I understand where you're coming from. One  
13 is that you can't tell -- you, the Internet  
14 provider, can't tell where the call is coming  
15 from.

16 And I'm having a disconnect as to why  
17 you would say that. If I call somebody from a  
18 telephone line in my house, surely I know that  
19 there is technology that can tell from what  
20 telephone exchange or area code that phone call  
21 is coming.

22 The other assumption I'm having a little  
23 bit of trouble with is the situs of the business  
24 when it comes to Internet. Doesn't the business,  
25 whether it's the company that Representative

1       Clymer's talking about in Blue Bell or somebody  
2       who was in Vegas going to some island, coming  
3       back in, isn't there still an ability to define  
4       the situs of the business to find out whether  
5       that business is properly -- whatever you have to  
6       do -- registered or following the laws of the  
7       place where they have made their business home?  
8       So can you address those two issues?

9               MR. POST: Yeah. Let me -- without  
10       getting into too much technology, unfortunately,  
11       the answer to the first question is really a  
12       technical one.

13               There is a very big difference in the  
14       technology between placing a phone call to  
15       someone in Las Vegas and sending a message over  
16       the Internet to someone in Las Vegas.

17               Placing a phone call -- the telephone  
18       system uses something called circuit switching.  
19       When you place that call, there is a physical  
20       wire that connects you -- I could walk along  
21       it -- to the person in Las Vegas.

22               So we can, in effect, trace -- as that  
23       call is going forward, this line is open; and we  
24       can with the appropriate technology -- and it's  
25       relatively simple. Law enforcement people use it



1 all the time, obviously -- we can trace that  
2 phone call along that line and say where is it  
3 going and where did it come from.

4 That's not how the Internet works. The  
5 Internet works, I send a message from my office  
6 at Temple, I send a message through a service  
7 provider who may be located anywhere.

8 Once that message gets to the service  
9 provider and is going off over the Internet, it  
10 gets broken apart into a number of different  
11 things. It gets sent along various routes on  
12 this -- each little packet. It's called a packet  
13 switch network.

14 Each little packet moves separately  
15 across this network and is reassembled at the  
16 destination point, that server in Las Vegas.  
17 They can say when they get this thing, oh, here  
18 comes a message from Service Provider "x". Here  
19 comes an incoming message from a particular  
20 machine that has an ID number.

21 What they can't say -- but what they  
22 can't say is where is the user of that machine  
23 located? Where did the person who actually  
24 originated it, not the service provider --

25 REPRESENTATIVE MANDERINO: Okay. So

1       let's use the common ones that people will be  
2       familiar with.  If I'm the service provider of  
3       America Online and the place that I'm sending it  
4       to is a service provider -- is the service  
5       provider USA Onramp (phonetic), for example, USA  
6       Onramp can receive it and say I know this came  
7       from AOL but I don't know where AOL got it from?

8               MR. POST:  Exactly.  And, in fact, as I  
9       mentioned in the testimony, it is trivial easy  
10      for me at my desk in Temple again using my  
11      service provider, which is Temple University, to  
12      spooof, if you will, the system so that it thinks  
13      I'm coming through America Online.

14             The server in Las Vegas will get a  
15      message saying, This came from AOL, dot, com.,  
16      somebody at AOL, dot, com. when, in fact, it was  
17      coming from me in Philadelphia using a different  
18      service provider.  Again, not to get too  
19      technical, it's called something called TelNet  
20      (phonetic).

21             It's not widely known about, but that's  
22      because no really cares about doing it right now.  
23      If you prohibit people from gambling on the  
24      Internet, I can guarantee you that two years from  
25      now you'll all know about TelNet because people

1 will be using it to avoid this problem.

2 REPRESENTATIVE MANDERINO: So it's not  
3 sufficient to say, well, AOL or USA Onramp or the  
4 Temple service provider knows where these calls  
5 are coming from so they can put a block on calls  
6 going from them to somewhere else?

7 MR. POST: Well, you could do that at  
8 enormous complexity and enormous cost. You could  
9 presumably trace back through all of these  
10 connections and find out where did this message  
11 act -- what service provider at least did this  
12 message originate from.

13 Still not going to tell you where the  
14 individual is located. And service  
15 providers -- you know, I'm a NetCom user. Netcom  
16 is located, I think, in California. I don't know  
17 where their principle place of business is.

18 I use their services when I'm in  
19 Philadelphia. They don't know that. They don't  
20 know that and they can't tell that really when I  
21 sign on and nobody else on the Internet really  
22 can say where I am at that moment.

23 It's quite different from the phone  
24 network in that regard, and that's a very  
25 important distinction between the Internet and

1 the telephone number.

2 REPRESENTATIVE MANDERINO: Thank you. I  
3 don't want to ask more questions; but I would  
4 appreciate if you would address -- I kind of  
5 threw two questions at you. And the other one  
6 dealt with the situs of the business, whether  
7 there's any way to make sure that someone,  
8 whether it's Pennsylvania, if it's a business, an  
9 Internet gambling service provider located in  
10 Blue Bell, Pennsylvania, or somewhere else in  
11 Pennsylvania, if it's located in our state, do we  
12 have a responsibility, should we be worried about  
13 whether or not that's a legitimately registered  
14 with the Commonwealth business conducting itself  
15 within the laws of Pennsylvania and should any  
16 other state be worried from that end?

17 MR. POST: Well --

18 REPRESENTATIVE MANDERINO: I mean, I  
19 know where the situs of X-Y-Z catalog company is  
20 so that if they defrauded me, I know how to go  
21 after them. Should we have that same concern  
22 about the providers of Internet gambling  
23 services?

24 MR. POST: Yes. And there's certainly  
25 no reason that -- the situs of a business on the

1 Internet can be determined. There is a machine  
2 somewhere. Many of the gambling sites that  
3 people will talk about later, there is a server  
4 that's a physical thing operating WWW, dot,  
5 casino, dot, org. or whatever.

6 It could be held onto. We can say at  
7 least in theory where that is. If that is in  
8 Pennsylvania, no one would suggest and I  
9 certainty wouldn't suggest that it is not within  
10 the jurisdiction of the Pennsylvania General  
11 Assembly and Pennsylvania Attorney General.

12 And to have laws that would require that  
13 business to register to comply with the laws of  
14 Pennsylvania, et cetera, is certainly well within  
15 your power and authority.

16 There's no central registry right now so  
17 that I can tell you when I go on the Internet  
18 where any particular site is located. Again,  
19 that is not something -- if there were to be a  
20 central registry, that's not something that we  
21 could mandate here in this room.

22 Now, because of the international nature  
23 of this, that will have to take some kind of  
24 really international coordination in order to  
25 accomplish that so that we could know that such

1 and such a business, where it is located and how  
2 one might be able to obtain redress.

3 REPRESENTATIVE MANDERINO: Thank you.  
4 Thank you, Mr. Chairman.

5 CHAIRPERSON GANNON: Representative  
6 Feese.

7 REPRESENTATIVE FEESE: Thank you,  
8 Mr. Chairman. Professor, I have a question  
9 concerning the constitutional issue, and it seems  
10 to be a serious question; and I agree, it's a  
11 very serious, very substantial question.

12 Any insight you might have, are there  
13 any ethical considerations for prosecutors who  
14 are confronted with a statute where there's a  
15 significant constitutional issue, whether it's  
16 constitutional, and maybe even the prosecutor  
17 believes that it's unconstitutional and them  
18 starting to enforce that statute with that  
19 knowledge just with the understanding that we'll  
20 test it on a particular individual, we'll test it  
21 on a particular company?

22 And that seems to be what Missouri is  
23 doing.

24 MR. POST: Yes. Well, that's a  
25 difficult and very rich question. In this

1 country, we are certainly all comfortable with  
2 the notion that the courts and ultimately the  
3 Supreme Court of the United States is the  
4 ultimate determiner -- determinant of whether or  
5 not an action is constitutional.

6 I don't think there is any ethical  
7 problem with the Attorney General of Pennsylvania  
8 enforcing a statute that he or she might believe  
9 to be unconstitutional but on which he or she has  
10 a good faith belief that there's a question  
11 about, that there's a reasonable question about  
12 the constitutionality.

13 And I'm sure that happens all the time.  
14 And I believe as I'm flipping through my mental  
15 data base here that there is even a provision of  
16 the Code of Professional Ethics for attorneys  
17 that speaks of this question.

18 You can't ethically act  
19 unconstitutionally, if you will, if you have a  
20 reasonable belief that the question is open and  
21 you believe that this is a good way to test it is  
22 to act and bring the action in front of a  
23 competent court to hear the case and to make your  
24 presentation.

25 So I think unless one were -- I think

1       there is a line that probably no one can define  
2       at which point the Attorney General or any  
3       officer of the court for that matter would have  
4       to say I'm not going to take this step because  
5       this action is so clearly contrary to the  
6       Constitution of the United States that I cannot  
7       in good conscience do that.

8                   I don't know where that line is. I  
9       don't think we're crossing it here. Let me  
10      hasten to point out I really don't. I think this  
11      is an open question. It's a question about the  
12      regulation -- state regulation of the Internet  
13      and it's constitutional implications.

14                   I think courts will be wrestling with  
15      that for the next ten years. And there will be  
16      nuances and things that can be done and can't be  
17      done that I think are very hard to predict in  
18      advance. So I think that's a question on which  
19      reasonable people can undoubtedly disagree in  
20      good faith.

21                   REPRESENTATIVE FEESE: Another question  
22      I have is the bills that we're looking at, at  
23      least one of the goals would be to deter  
24      individuals from betting --

25                   MR. POST: Right.



1                   REPRESENTATIVE FEESE:  -- and the  
2                   constitutional question for interstate  
3                   activities.  But I'm struggling with how you  
4                   could enforce or build a case to prosecute a  
5                   better in Pennsylvania absent the better walking  
6                   in the District Attorney's office or police  
7                   station and say, gee, I bet on the Internet.

8                   Starting at the other end, starting at  
9                   the casino Internet site, what steps would need  
10                  to be made?  And I was a District Attorney.  And  
11                  I'm thinking, well, if I could trace it back to  
12                  the server and if I trace it back to the server,  
13                  I need a search warrant there.

14                  And from the server, I guess that I  
15                  could trace it back to a particular computer; I  
16                  need a search warrant there --

17                  MR. POST:  Correct.

18                  REPRESENTATIVE FEESE:  -- and even if I  
19                  get that information somehow off the computer and  
20                  the question is who placed the bet, I don't see,  
21                  quite -- I guess I'm asking you if I'm wrong in  
22                  that sequence because I don't see a prosecutor  
23                  doing that.  I would not have wasted my time  
24                  doing that.

25                  MR. POST:  I must say I agree with -- I

1 don't think you're wrong in that perception.  
2 Perhaps the people testifying from the Attorney  
3 General's office might view this differently; but  
4 I don't see short of this chain of warrants -- in  
5 fact, it may even be worse than that. It may be  
6 even more difficult than that.

7 Disclosure -- a service provider's  
8 disclosure of these records about where messages  
9 went from their subscribers out over the Internet  
10 may, in fact, be subject to the Electronic  
11 Communications Privacy Act, a federal statute  
12 which requires a court order, a special  
13 proceeding in order to retrieve these records.

14 So it is a -- it can be done perhaps;  
15 but it is cumbersome, costly, difficult to attack  
16 a problem that in the eyes of many people is not  
17 worth that expense.

18 I guess we could argue about that. But  
19 it is an enormous -- at each step of this chain,  
20 one has to get either a warrant or a court order  
21 to go in, see if they have maintained these  
22 records -- there's no obligation of the service  
23 provider to do so, to maintain these  
24 records -- see if they have, get those records,  
25 comb through them, find out when the next link on

1 the chain is, go to that provider, get a court  
2 order for those records, et cetera, et cetera, et  
3 cetera, with the hope of maybe tracing it back to  
4 the original better.

5 I think it's almost unenforceable; and,  
6 therefore, I think it will not deter people. As  
7 a practical matter, I don't think this will deter  
8 people from gambling over the Internet. That I  
9 think is part of the problem.

10 REPRESENTATIVE FEESE: One final  
11 question: You raised in you written testimony  
12 that House Bill 2271 would criminalize the office  
13 betting pool using the electronic mail system.  
14 And I have a concern about that. I think it  
15 would probably criminalize using electronic mail  
16 system if I would send a message to you saying I  
17 bet you a State dinner on the outcome of a game  
18 or something, something like that.

19 But do you see that same concern in  
20 House Bill 2438? I read it quickly --

21 MR. POST: No. No, I don't. I think  
22 that is specifically targeted to -- I mean,  
23 again, that affects only people in the business  
24 of betting or wagering.

25 At my office, even if the Temple

1 University Law faculty, let us say, has an NCAA  
2 tournament pool -- Temple University is not in  
3 the business of betting or wagering, neither am I  
4 for that matter -- the provisions of 2438 would  
5 really not affect that kind of private activity  
6 because I think that there is a threshold that  
7 has to be met before the provisions apply to you;  
8 namely, you have to be in that business.

9 So I think most of these other things  
10 would, in fact, fortunately fall beneath that  
11 threshold and would not be prosecuted, could not  
12 be prosecuted under that.

13 REPRESENTATIVE FEESE: Thank you very  
14 much. Thank you, Mr. Chairman.

15 CHAIRPERSON GANNON: Representative  
16 Birmelin.

17 REPRESENTATIVE BIRMELIN: Thank you,  
18 Mr. Chairman. I'm going to take you back to the  
19 illustration that Representative Manderino used  
20 to ask you a few questions; that is, a company  
21 that may be located in California but does the  
22 business in other 49 states, isn't it true that  
23 each of those states may have a different sales  
24 tax ratio than each other and that that business  
25 doing business in Pennsylvania needs to know what

1 the sales tax rate is in the Pennsylvania because  
2 they need to charge those Pennsylvania residents  
3 6 percent sales tax and maybe 7 percent in some  
4 other states?

5 But that company needs to know what  
6 every individual state's sales tax rate is; is  
7 that correct?

8 MR. POST: Well, actually, no, for many  
9 of the reasons -- the constitutional reasons that  
10 I was talking about. If a catalog company  
11 located in California, if it has no physical  
12 presence in the State of Pennsylvania, if it has  
13 no retail outlets, if it has no sales personnel,  
14 if it has no offices, it is not under any  
15 obligation to charge Pennsylvania sales tax and  
16 cannot constitutionally be compelled to do so.

17 That is precisely one of the Commerce  
18 Clause -- one of the features of the United  
19 States Commerce Clause as interpreted by the  
20 Supreme Court is that it doesn't have to do so.

21 Now, so, the easy answer to your  
22 question is no. If I'm running that business, I  
23 only have to know the sales tax rate applicable  
24 in California because that's the only one I have  
25 to collect.

1           Your larger point, I take it, is that  
2           that's not that -- there are many businesses, of  
3           course that do maintain physical presence in  
4           every state and they do have to maintain records  
5           of what Pennsylvania charges and what New York  
6           charges and what Delaware charges and what  
7           Missouri charges, et cetera. I mean, it can be  
8           done.

9           REPRESENTATIVE BIRMELIN: And that is my  
10          point, that you will oftentimes get an order form  
11          from a company and say if you're a Pennsylvania  
12          resident you pay a 6 percent sales tax, if your  
13          from Virginia and whatever their rate is and so  
14          forth.

15          So I don't think it's that difficult for  
16          computer gambling organizations to know what each  
17          state's requirement may be in this particular  
18          area.

19          And back to another comment that was  
20          made earlier, you indicated that it's impossible  
21          for the server to know where the user is located.  
22          While that may be true electronically -- and I  
23          pose this to you as a question -- is it not also  
24          true that the way in which the money is collected  
25          from the user is through a credit card which

1 identifies your state of location and there is  
2 also the fact that if you don't use a credit card  
3 and you set up an account, that could be made to  
4 be by location of the state as a part of their  
5 address because you would obviously need to  
6 collect that money if the person loses on the  
7 bet, which invariably they do; and the company  
8 wants to collect their money?

9 So I pose that question to you in the  
10 sense that don't you think worrying about where  
11 the signal comes from electronically is overcome  
12 by the fact that we know through the method of  
13 payment where the person would be that is the  
14 user?

15 MR. POST: Basically, my answer to that  
16 is that you're probably right. I'm not going to  
17 suggest that it is a physical impossibility for  
18 web sites to know if money is changing hands that  
19 it is a physical or natural impossibility for  
20 them ever to get information about where their  
21 customers are located.

22 The cost of doing so and the intrusion  
23 on the privacy of people who are operating in  
24 cyberspace I think is something you ought to at  
25 least consider.

1           Right now, businesses routinely do  
2           not -- when I give them a credit card number,  
3           they do not see where I'm located. They don't  
4           have access to that information. It exists  
5           somewhere, to be sure.

6           My street address, my phone number is  
7           linked to that information somewhere. But right  
8           now they're just checking to see is this valid?  
9           Does American Express stand behind this number so  
10          that they can get the money? If the answer's  
11          yes, they go forward.

12          Building a system in which every  
13          movement I make in cyberspace is traced, which  
14          all of these data bases are sort of matched up  
15          against one another and in which businesses are  
16          required to find out where is this person  
17          sitting -- George Orwell wrote about that.

18          That's a system that is to many people  
19          really quite terrifying. We like the fact that  
20          we can move about in the real world to some  
21          extent and in cyberspace without everybody  
22          knowing exactly where we are at every moment.

23          We could build a system perhaps at  
24          enormous cost that would trace everybody down to  
25          where they're sitting. I mean, we could implant



1 people with radios that are sending out  
2 geographical located signals. I think most  
3 people don't want to live in that kind of  
4 society.

5 That's a long-winded answer to your  
6 question. It could be done. It couldn't be done  
7 today, but you could build the systems and the  
8 infrastructure for doing so over time. I'm  
9 not -- I guess I would just urge you to consider  
10 about whether that would be a desirable thing to  
11 do.

12 REPRESENTATIVE BIRMELIN: I understand  
13 the impact of what we're doing. I guess I  
14 wouldn't be going to quite the extreme that you  
15 just suggested.

16 But I do see in place already in the  
17 United States many different ways from which  
18 similar activities are controlled -- some catalog  
19 sales company to other businesses that want to do  
20 business in a certain state, they need to know  
21 the laws of the state concerning that business  
22 they're in.

23 Maybe it's auto makers who know that the  
24 California emission standards are extremely more  
25 difficult in some cases that they are in the rest

1 of the United States. And when cars are sold in  
2 California, the Detroit manufacturers know they  
3 have to do certain things to sell those vehicles  
4 in California.

5 And I think as the Internet shakes down  
6 and the more obvious frauds probably will fall by  
7 the wayside because of their own fraudulent  
8 activities and you will be left with  
9 gambling -- so-called reputable gambling  
10 institutions, they will know the laws and they  
11 will abide by them in their states.

12 So I don't really see this as a big  
13 brother type of situation or the creation of some  
14 of the scenarios that you painted, but I think  
15 there is in place some sort of similar controls  
16 for activities at this point in time.

17 And I am concerned about constitutional  
18 questions of privacy, but I also think that  
19 oftentimes that becomes a shield to try to allow  
20 for any type of activities.

21 Just behavior simply because it happens  
22 in your home that doesn't mean it's  
23 constitutional protected, as you and I know.  
24 You may consider it to be invasion of privacy.  
25 That doesn't make them right. It doesn't make it

1       lawful. That's the only comments I have. Thank  
2       you, Mr. Chairman.

3               MR. POST: May I just briefly just to  
4       clarify what I was saying, back to the exempt  
5       law, spending a moment there, the  
6       conversation -- Stern having about whether it is  
7       possible to trace given some other technologies  
8       that are not quite in place now, et cetera, that  
9       it is possible to trace the location of an  
10      Internet better if I'm operating an offshore  
11      casino, that it might be possible to do so begs  
12      the question of whether the law of Pennsylvania  
13      can compel me to do so as the operator of an  
14      offshore casino for the same reason that the law  
15      of Pennsylvania cannot compel me to collect  
16      Pennsylvania State sales tax with respect to that  
17      transaction, I think -- constitutionally compel  
18      me to do so, I think the same analysis would  
19      apply if I'm operating a casino.

20             Although I may be able to figure out  
21      that you're coming in from Pennsylvania, you  
22      can't -- the State of Pennsylvania can't make me  
23      employ those technologies to do so.

24             Congress may be able to, and Congress  
25      can if it chooses to; but I don't think that is

1 something -- again, the sales tax example is a  
2 perfect analog.

3 You can't compel the offshore or the  
4 out-of-state operator to keep this records and to  
5 keep the Pennsylvanians out because that's  
6 telling them how to do business in their state.

7 CHAIRPERSON GANNON: What types of  
8 constitutional guarantees would we owe to a  
9 company in Belize? You talked about --

10 MR. POST: Very few. Very few. I'm not  
11 sure of the import of the question. That doesn't  
12 necessarily --

13 CHAIRPERSON GANNON: A lot of comments  
14 were made about this is unconstitutional, that's  
15 unconstitutional --

16 MR. POST: Right.

17 CHAIRPERSON GANNON: It would be my  
18 guess that the same constitutional guarantees  
19 that would apply to citizens of the State and  
20 citizens of the United States would not apply to  
21 citizens of Belize or a company operating in  
22 Belize --

23 MR. POST: Correct.

24 CHAIRPERSON GANNON: -- but transacting  
25 business via the Internet in Pennsylvania.

1 MR. POST: That's correct.

2 CHAIRPERSON GANNON: So would there be  
3 a better -- or more opportunity to regulate  
4 enterprises if we could get jurisdiction?

5 MR. POST: Ah.

6 CHAIRPERSON GANNON: Possibly. I'll get  
7 to that question in a second. That would be  
8 outside, for Pennsylvania to have some type of --

9 MR. POST: Sure.

10 CHAIRPERSON GANNON: -- enforcement for  
11 a company that's operating offshore of the United  
12 States as opposed to a company that's, let's say,  
13 operating out of Las Vegas or Nevada?

14 MR. POST: But the people of Belize will  
15 feel about the same when the Attorney General of  
16 Pennsylvania comes in to shut down their casino  
17 as the people of Pennsylvania would feel if the  
18 Attorney General of Belize came in and shut down  
19 some Pennsylvania business, which is not very  
20 good.

21 And all of that is assumed under your,  
22 if we could get jurisdiction. Jurisdiction is  
23 the critical problem there. The Constitution  
24 doesn't really apply to the jurisdictional  
25 exercise overseas because the Constitution

1 doesn't really apply overseas.

2 But there is still an enormous problem  
3 about getting jurisdiction over business or  
4 individuals that are located in other sovereign  
5 nations.

6 CHAIRPERSON GANNON: The other thing  
7 that I thought about was with respect to the actual  
8 transactions that take place. We have companies  
9 from Virginia that are putting up billboards all  
10 over Pennsylvania about coming down to Virginia  
11 and playing slots at their race tracks and we  
12 have companies in Delaware transmitting  
13 advertisements into the Commonwealth of  
14 Pennsylvania encouraging people to go to the race  
15 tracks in Delaware and play their slot machines.

16 But they're allowed to engage in a business  
17 that's prohibited in Pennsylvania. We couldn't tell  
18 them to take down their billboards and stop  
19 advertising on television because that's a prohibited  
20 activity because there's no transaction taking place  
21 in Pennsylvania.

22 But if I had a computer terminal or  
23 somebody's put a computer terminal in Pennsylvania  
24 and I can engage in transactions across that computer  
25 terminal, whether it's through the Internet or

1 telephone or whatever, could that arguably be a  
2 transaction that's taking place in the Commonwealth  
3 of Pennsylvania?

4 MR. POST: That's a -- yes. Arguably, it  
5 could be. There is a big debate going on now in  
6 the courts. There are courts that are struggling  
7 with this question: Where does the transaction  
8 take place?

9 Where one can view -- again, the  
10 user -- hypothetically, the user in Pennsylvania and  
11 the web server in Delaware, let us say, one can view  
12 that transaction as one in which the Delaware  
13 company has come into Pennsylvania to do its  
14 business.

15 One could just as easily view that  
16 transaction as one in which one the user in  
17 Pennsylvania has gone to Delaware. It's a sort  
18 of battle of metaphors. It's no right way or  
19 wrong way to look at that.

20 Some courts look at it in one way and  
21 some courts look at it in a different way. It's  
22 what makes these interjurisdiction cases very  
23 difficult and very confusing right now until we  
24 sort of come to some social understanding of what  
25 it all means.

1           You cannot prohibit someone from going to  
2 Delaware to gamble. That also is unconstitutional,  
3 and I assume that that's not on the agenda here. So  
4 if you look at it that way, you say Pennsylvania  
5 can't stop somebody from using their computer to go  
6 to Delaware.

7           If you look at it the other way, you say,  
8 well, they're just like a catalog business sending  
9 stuff into Pennsylvania; and we can assert  
10 jurisdiction over that. I can't tell you which way  
11 is right or wrong.

12           I think they're both ways to look at this.  
13 And we are engaged and the courts are engaged in a  
14 struggle to see which really makes the most sense.

15           CHAIRPERSON GANNON: It just seems to me  
16 from looking at the elements that have to take place  
17 in a transaction such as that, the actual transaction  
18 may take place on the computer in front of you; it's  
19 not until you hit the return key or the send key that  
20 that's sent to the other end through the Internet or  
21 whatever.

22           What I'm trying to wrestle with is the issue  
23 of jurisdiction. Because certainly if you're not  
24 doing business in Pennsylvania, then you have a weak  
25 case for it's your jurisdiction. But, in fact, a



1 transaction is taking place in the Commonwealth.

2 Maybe it's being sent someplace else  
3 electronically. Then perhaps there is an  
4 argument that we would have jurisdiction over a  
5 company that is engaged in gambling. But if the  
6 actual gaming transaction's occurring here, then  
7 that would give us jurisdiction.

8 And even perhaps it would not only be  
9 limited to companies that are located in the United  
10 States or individuals located in the United States.

11 MR. POST: You certainly have a  
12 reasonable argument. It was the argument the  
13 Attorney General of Missouri has used; the  
14 argument the Attorney General of Minnesota has  
15 used. It has been successful in some courts and  
16 not in others.

17 There's no question that you could take the  
18 position that this transaction is taking place in  
19 Pennsylvania and that, therefore, Pennsylvania courts  
20 and the Pennsylvania Attorney General have  
21 jurisdiction to regulate it.

22 The problem with that is that if  
23 that's -- the problem -- there are two problems. One  
24 is the constitutional standard. The  
25 constitutional standard is that before you can

1       assert jurisdiction over someone they have to  
2       purposefully avail themselves of the benefits of  
3       doing business in the state.

4                If I'm the counsel for the Delaware  
5       casino, I say, I haven't purposefully gone into  
6       Pennsylvania. I can't control the  
7       electrons -- this is a discussion we were having  
8       before -- I can't control where --

9                CHAIRPERSON GANNON: I don't mean to  
10       interrupt, but I don't think it's quite that  
11       simple because -- I know who you are. I have no  
12       idea who you are. You're in one terminal; I'm at  
13       another terminal; you don't know who I am.

14               But before you're going to let me wager  
15       and you're going to pay that wager, I've got to  
16       somehow get funds to you. You've got to induce  
17       me somehow to send you money.

18               And it's either going to be the money  
19       I'm going to lay on a particular bet or it's  
20       going to be enough money that I can bet  
21       sequentially with you until it's all gone or  
22       until it's all gone or until I'm gone -- either  
23       I've won and I'm done or I've won enough and I'm  
24       done.

25               So wouldn't that argument be an

1 inducement to come into Pennsylvania and say,  
2 Mr. Gannon, send us a check for a thousand  
3 dollars or send us your credit card number for a  
4 thousand dollars and we would be happy to do  
5 business with you?

6 And you've come into Pennsylvania and  
7 induced me to save you money. Now, the  
8 transactions might take place electronically; but  
9 I think arguably you come into Pennsylvania and  
10 induce me to engage in business with you.

11 MR. POST: Just as a billboard. I mean,  
12 I think you're right. Advertising that is hard  
13 to get to a particular geographical area that  
14 says citizens of Pennsylvania, you can come and  
15 gamble at my casino by means of a billboard or a  
16 newspaper advertisement or what have you is often  
17 enough to sustain an exercise of jurisdiction.

18 CHAIRPERSON GANNON: I think the  
19 billboard analogy -- I understand what you're  
20 saying; but that's much more general. That's  
21 just simply to say, We're here. If you want to  
22 come down and gamble, come down and gamble,  
23 whether it be Virginia or Delaware.

24 I'm talking about specifically saying,  
25 you know, you make the inquiry. Hey, I want to

1       become one of your clients. Fine. You want an  
2       account number, a password, you want to log on --

3               MR. POST: Right.

4               CHAIRPERSON GANNON: -- you send us a  
5       check for "x" number of dollars, we'll give you  
6       access to our system --

7               MR. POST: Right.

8               CHAIRPERSON GANNON: -- but you've got  
9       to pay or provide the consideration in order to  
10      do that. I think that's a little more specific  
11      than saying billboard's saying --

12              MR. POST: Okay. So then the question  
13      becomes, Have I -- I am the operator of the  
14      casino who has done this. Have I purposely  
15      availed myself of doing business in Pennsylvania?  
16      If you say yes -- and, again, the reasonable  
17      argument is to say yes.

18              My argument would be, I didn't know you  
19      were in Pennsylvania. I had no idea you were in  
20      Pennsylvania. I had no idea you were in  
21      Pennsylvania. So how could you say I  
22      purposefully availed myself?

23              CHAIRPERSON GANNON: Where are you going  
24      to send my winnings?

25              MR. POST: I'm going to credit them to

1 an account number that you gave me.

2 CHAIRPERSON GANNON: You're going to  
3 have to send that money someplace.

4 MR. POST: I will credit your winnings  
5 to your account to be sure if I'm -- but the  
6 account's a number. The account could be a  
7 credit card number. I didn't check. This goes  
8 back to the conversation we were having earlier.

9 I could have checked, perhaps; but I  
10 didn't ask American Express, Where does this  
11 customer live? I didn't ask them that. I didn't  
12 care about where he lived. Now, you might say,  
13 Well, you have to ask where they live. You have  
14 to find out if someone's from Pennsylvania and  
15 decline.

16 This gets back to the conversation we  
17 had earlier. I don't think you can compel me to  
18 do so for the same reason that you can't compel  
19 me to collect Pennsylvania sales tax. So it sort  
20 of -- it becomes circular in a sense.

21 I agree with you that that is a  
22 reasonable argument. You can press that argument  
23 in court. Don't hire me to defend it, but there  
24 are certainly good lawyers who will press it; and  
25 they may win. This is an area we don't have the

1 answer to yet. The courts are struggling with  
2 this very problem.

3 CHAIRPERSON GANNON: Counsel Ryan.

4 MR. RYAN: Professor, your basic premise  
5 is, is that these people involved in Internet  
6 gambling currently are somehow legitimate. In  
7 every state in this country, gambling is either  
8 illegal or licensed. Can you point to any of  
9 these Internet gambling institutions that are  
10 licensed in any state?

11 MR. POST: Well, I believe there  
12 are -- I guess my answer is probably no. My  
13 answer to that is no. It's one of the reasons  
14 why Internet gambling is, in fact, relatively small  
15 potatoes right now is that, of course, people  
16 know that these are -- I mean, all of the things  
17 we were talking about earlier.

18 I mean, people are not that stupid with  
19 their money that they're going to say, okay, roll  
20 the roulette wheel in virtual space and pay me if  
21 I win.

22 MR. RYAN: But the second point is that  
23 any state if they were, in fact, to have a licensed  
24 gambling institution that wished to be involved  
25 in this type of activity, they couldn't be

1       conducting that activity over state lines, could  
2       they, because it would be a violation of federal  
3       law?

4               MR. POST: That's correct. That's  
5       correct.

6               MR. RYAN: So how do we provide a  
7       constitutional protection to a business that is  
8       by its nature illegal? There is no  
9       constitutionally-protected rights of an illegal  
10      activity, which is gambling.

11              So the constitutional protection that  
12      you talked about here cannot be provided to these  
13      businesses that are illegal per se.

14              MR. POST: I mean, it's not correct to  
15      say that there are no constitutional protections  
16      for an illegal business. I mean, the state of --

17              MR. RYAN: Not that they're conducting  
18      their business illegally, the business  
19      itself -- gambling in Pennsylvania, this Blue  
20      Bell Corporation talked about, there is no way  
21      that that business can be conducted or licensed  
22      in Pennsylvania in a legal manner.

23              It is what we traditionally call a  
24      bookmaking activity. It should be prosecuted by  
25      the Attorney General here -- forget about

1 Missouri -- because it's illegal to accept bets  
2 in Pennsylvania.

3 What constitutional provision do you  
4 provide to a business -- is racketeering a  
5 business that is constitutionally protected that  
6 states can't regulate what takes place in another  
7 state?

8 MR. POST: Yes. You cannot  
9 regulate -- I mean, you do not lose  
10 constitutional protections against assertions of  
11 extraterritorial jurisdiction because you are  
12 acting illegally. You just don't.

13 MR. RYAN: Interstate commerce  
14 protections does not apply to illegally-conducted  
15 activities. It's a question of whether you  
16 have jurisdiction, which were the issues over  
17 whether the activity takes place in the state.

18 But if I fire a bullet across a state  
19 line and I kill you, jurisdiction can be where I  
20 fired from or where it hit the person. If I call  
21 you over the telephone and threaten you with  
22 death, it can take place from where I made the  
23 telephone call or where you received it.

24 If I put a tax return into the mail and  
25 they receive it in Philadelphia but I'm in



1 Virginia, fraud can take place in either place  
2 because I mailed it in one or it was received in  
3 the other.

4 Why does a computer have to be more  
5 complicated than all these other traditional  
6 areas of the law that we've dealt with really  
7 rather effectively?

8 MR. POST: I guess I'd really have to  
9 challenge the premise. The constitutional issues  
10 do not disappear in any of the scenarios. The  
11 limitations on jurisdiction are constitutional  
12 limitations. They are constitutional limitations  
13 that stem from very much the same source as the  
14 Commerce Clause limitations.

15 You cannot constitutionally assert  
16 jurisdiction over someone in another state who  
17 may be conducting something -- who may be  
18 conducting business that is illegal and may be  
19 harming your residents unless you meet the  
20 constitutional minimum, unless you meet the  
21 requirement that you have minimum contact with  
22 the forum in question. It just doesn't disappear  
23 because it's racketeering.

24 MR. RYAN: Where is it any different if  
25 I have a mail-order house and a person in

1        Pennsylvania over the telephone or through the  
2        mail calls or contacts with that mail-order house?  
3        We have jurisdiction to prosecute those people on  
4        a fraud basis. We recognize that. Why is it the  
5        computer makes this so much more difficult?

6                MR. POST: It makes it more difficult  
7        because the person at the other -- the person at  
8        the other end can't tell where you are  
9        located -- cannot tell now where you are located  
10       in the way that the person who's got the catalog  
11       can.

12               If a business chooses not to do business  
13       in Pennsylvania, catalog business, it can do so.  
14       It is consenting to the Pennsylvania fraud laws  
15       when it mails things into Pennsylvania. That  
16       choice is simply not present on the Internet.  
17       That's a very big difference, and I think it has  
18       constitutional significance.

19               MR. RYAN: If you're in one state and it  
20       is illegal for you to receive bets from the other  
21       49 and you're on the Internet and you know that  
22       your likely to receive bets from all over the  
23       country, you are encouraging that illegal  
24       activity, aren't you?

25               MR. POST: Probably, yeah, aiding and

1 abetting. And that's why they've moved offshore.  
2 I mean, we're talking about a problem that has  
3 already really migrated to offshore sites outside  
4 of the United States and outside of the  
5 protections of the Constitution.

6 MR. RYAN: Thank you.

7 CHAIRPERSON GANNON: Thank you very  
8 much, Professor. Your testimony has been very  
9 enlightening as well as the question and  
10 answers -- questions from the Committee and your  
11 answers.

12 Our next witness is Peter Sand, Chief  
13 Deputy Attorney General, Information and  
14 Technology Law Section of the Attorney General's  
15 office. Mr. Sand, thank you for your patience;  
16 and you may proceed when you're ready.

17 MR. SAND: Good afternoon, Chairman  
18 Gannon and Members of the Committee. Thank you  
19 for this opportunity to present a technical  
20 background of Internet gambling as a primer for  
21 the further discussions today.

22 My name is Peter Sand. I'm the Chief  
23 Information Officer of the Office of Attorney  
24 General, Mike Fisher. I am also Chief Deputy  
25 Attorney General and I manage the Information,

1 Technology, and Law Section of the office.

2 Newly created under the leadership of  
3 General Fisher, the Information, Technology, and  
4 Law Section oversees the strategy, implementation,  
5 and maintenance of technology throughout the  
6 office.

7 In addition to technical work, the  
8 Information, Technology, and Law Section assists  
9 the office in understanding emerging Internet  
10 legal issues as well as guiding the office's  
11 law enforcement efforts to combat illegal  
12 activity which is taking place on the Internet.

13 Under the direction of Mike Fisher, the  
14 Information, Technology, and Law Section has  
15 taken a leadership role with the National  
16 Association of Attorneys General regarding both  
17 Internet technical and Internet legal work.

18 In addition, the Information,  
19 Technology, and Law Section offers guidance to  
20 other law enforcement agencies across the  
21 Commonwealth regarding these same issues.

22 My remarks today are limited to the  
23 underlying Internet technology and do not address  
24 any legal issues. In an effort to illustrate the  
25 technology issue, I would like to submit my

1 written testimony to the Committee and spend my  
2 allotted time demonstrating Internet gambling  
3 environment.

4 I've asked Ms. Szukalski to assist me  
5 with the mechanics of the presentation.  
6 Mr. Chairman, with your permission, I would like  
7 to begin the presentation portion of my  
8 testimony.

9 CHAIRPERSON GANNON: You may proceed.

10 MR. SAND: If you cannot hear me from  
11 over here, let me know and I'll find a  
12 microphone. We're going to look at three  
13 separate issues today. These are huge issues.  
14 Each one could take at least a day to discuss  
15 fully.

16 We're going to do the whole thing in  
17 under 15 minutes, so please understand the  
18 remarks we're going to make today are very  
19 general. It's an overview.

20 The first issue is what is the Internet;  
21 the second issue is how do you find gambling  
22 sites; and then, finally, how do you go about  
23 placing a bet?

24 There are three different ways to look  
25 at the Internet: There's a legal perspective, a

1 technical perspective, and a business  
2 perspective. We're going to talk about these  
3 three different perspectives and then address  
4 overall character of the Internet.

5 From a legal perspective, the technology  
6 itself becomes irrelevant when you look at what  
7 is the legal environment because you're dealing  
8 with personal responsibility: Who did what to  
9 whom.

10 There are two main characters in a legal  
11 perspective. There is the user, the person who  
12 wants information or requests a service; then  
13 there is the enterprise, the party who is  
14 providing information or providing a service.

15 There's a third character in this  
16 environment: The middleman. That is the person,  
17 general speaking, who brokers the deal, who  
18 allows the user to get the information from the  
19 enterprise or allows the enterprise to provide  
20 information or service to the user.

21 This is a very general, very broad  
22 presentation of the legal issues that we're  
23 seeing here. The nature of the middleman is  
24 where a lot of the complex legal issues arise.  
25 What service exactly is the intermediary

1 providing, which is different from what the user  
2 is doing or what the enterprise is providing.

3 And we should note that geography in  
4 this sense is irrelevant. We're going to talk  
5 about that more when we look at the technical  
6 perspective. But one would look from a legal  
7 perspective at the Internet in terms of who is  
8 doing what and what are they therefore  
9 responsible for.

10 The technical perspective has nothing to  
11 do with people at all. It's irrelevant who's  
12 using it. It looks at only what is it that is  
13 being used? How does the Internet put together?

14 And very generally speaking, the  
15 Internet is nothing more than a network of  
16 networks. Those of you who work in large offices  
17 undoubtedly have computers that are hooked into  
18 other computers and you can send messages back  
19 and forth and you can look at stuff which is not  
20 on your machine but is somewhere else. That's a  
21 network.

22 The Internet is a large network that  
23 connects smaller networks to other smaller  
24 networks. It's very similar to the highway  
25 system. The Information Super Highway is a big

1       buzz term. Well, in some respects, it's  
2       accurate. It is a super highway.

3               There is a backbone, a large road which  
4       travels across the United States which has off  
5       ramps to smaller but still large roads which  
6       come off the super highway, and those roads have  
7       off ramps onto side streets that turns into  
8       driveways where the people are.

9               So the smaller arrows which are coming  
10      off the large arrows which cross the United  
11      States are the side streets. When you look at  
12      how the information gets from one person to  
13      another, you can literally trace it from one end  
14      of one line to one end of the other. The  
15      information travels through all of those roads.

16              But, of course, the Internet is not  
17      national; it's global. So the same pathways that  
18      you see represented across the states swing  
19      around the entire world and they're bounced off  
20      satellites and they're tunnelled under the ocean.

21              The technical issue of what is the  
22      Internet, the technical perspective, ignores  
23      people completely and just looks at how the thing  
24      is put together.

25              There's a third perspective which is a



1 business perspective which looks at the  
2 relationships. So it's not looking at the  
3 legal analysis, the structural architecture; but  
4 what is it that people are doing?

5 We have the same three general  
6 characters. We have the user on the left, we  
7 have the enterprise on the right, and we have the  
8 intermediary, or the middleman, in between.

9 This is where it gets very complicated.  
10 This is a very simple presentation. There will  
11 always be a person on the left who wants  
12 something and there will always be a person on  
13 the right who has something to offer and they  
14 will always work through a middleman.

15 The question is, What is the middleman  
16 doing? Who role does the intermediary play in a  
17 given transaction? I'm going to skip that issue  
18 completely because it's so complex. I'd have to  
19 give you an overview of the entire situation.

20 But know that if you're looking for the  
21 trouble areas, it's down there on the bottom.  
22 It's the guy who's holding all the different  
23 services in his hands.

24 To summarize the Internet, you can look  
25 at the Internet from three different

1 perspectives. There are three different  
2 questions that you can ask when you encounter an  
3 Internet transaction, an Internet question.

4 The first is a legal question: Who did  
5 it? Who's responsible? That's a bad thing to  
6 do. Who is it that did the bad thing? Or this  
7 person was hurt; who is it that hurt that person?  
8 It doesn't matter whether they used Email or  
9 paper mail or the web or an advertisement on the  
10 side of the road. You're just asking, Who did  
11 it?

12 From a business standpoint, you  
13 want to ask yourself or ask the people you're  
14 working with, What did they do? We know there's  
15 a bad guy somewhere. Well, who is that bad guy  
16 and what role did they play? Who else was  
17 involved? What work was each of these parties  
18 doing?

19 And that goes right to the heart of the  
20 intermediary issue, the idea of the role of the  
21 middleman. What is it that the middleman man is  
22 doing? Because mainly it's not the user that has  
23 done something wrong or the enterprise, it's this  
24 person in the middle.

25 Finally, you want to ask a technical

1 question from a technical perspective, which is,  
2 How did they do it? How is it that the  
3 information got from Texas to Pennsylvania or how  
4 is it that something showed up on my computer?  
5 Or I hit send, what happened? Where did it go?  
6 That's a technical question.

7           These three questions together give you  
8 the tools to understand what happens in any given  
9 situation. In terms of an overall character of  
10 the Internet, it is qualitatively different from  
11 the traditional environment.

12           In a traditional business setting, in  
13 order to become involved, one has to put out a  
14 substantial initial investment. One has to get  
15 real estate somewhere. One has to acquire an  
16 office staff, get pencils.

17           There's a lot of up-front costs. You  
18 have to have a physical presence somewhere. You  
19 have to let people know. A lot of that costs  
20 money. There's a huge paper trail behind a lot  
21 of it, speaking generally, obviously.

22           On the Internet, all you need is space  
23 on a computer somewhere because all the computers  
24 are hooked together and everybody can get all the  
25 information that is on any computer that is

1 connected to the Internet. So the initial cost  
2 is very small.

3 In addition, the business that you're  
4 doing, most of it is automated. So you don't  
5 need a staff. You don't need a room to put  
6 people. At most, you have to build the system  
7 itself.

8 So you have to build the computer  
9 technology which will allow the processing of a  
10 transaction. And sometimes you don't even need  
11 to do that. Sometimes you can announce that you  
12 offer a service then have a link, which is just  
13 an Email operation, and in essence there is no  
14 system development.

15 A web site can go up in under 5 minutes  
16 and look just as flashy as one which has a  
17 multi-million dollar capital investment. From  
18 the user's standpoint, you won't know. From a  
19 business's standpoint, it's a dollar issue.

20 We've looked at the Internet very  
21 briefly. Now we're now going to look at finding  
22 gambling sites. There are three different ways  
23 to find a gambling site: From the address  
24 itself, from advertisements on other web sites,  
25 and through searching.

1           From the address perspective, you can  
2           find a gambling site by typing in an intuitive  
3           word which is connected with the idea of  
4           gambling. You could type in "gambling" and it will  
5           take you immediately to a gambling site.

6           We very quickly went through some basic  
7           gambling related words: Casino, winner, placer,  
8           bet, online gambling. These are the addresses of  
9           gambling web sites. The Internet -- the World  
10          Wide Web, which is one of the things you can do  
11          on the Internet, uses words as physical  
12          addresses.

13          So you don't have to know where the  
14          machine is. All you have to know is the word is  
15          "casino." If I type in casino, dot, com., I will  
16          get the stuff that was there.

17          Well, if you look at it from a more  
18          removed standpoint, if I want to find a gambling  
19          site, chances are if I pick one of the generic  
20          words like "casino" or "gambling" or "betting" or  
21          "bet to win," somebody may have bought that name  
22          to be an address for that web site.

23          So it's -- most of the general words  
24          that you would use have been bought and have been  
25          associated with gambling sites. Another way to

1 find a gambling site is to stumble across an  
2 advertisement for one.

3 The web site on the side is an audio web  
4 site. It allows to you listen to music in real  
5 time over the Internet: Broadcast, dot, com.  
6 Well, on that site there are advertisements.  
7 Most of the advertisements are visual.

8 There's an advertisement on the left  
9 side of that web site for a gambling site. So if  
10 I'm trying to avoid gambling sites or I'm not  
11 even thinking about gambling, I want to listen to  
12 music, I still may stumble across a link to a  
13 gambling site.

14 This one is First Live, dot, com., the  
15 First Live Casino. You can click on the  
16 advertisement itself and be taken right to that  
17 casino.

18 Finally, a third way of finding a  
19 gambling site is to search for it. You can put  
20 in the word "gambling" in any of the major search  
21 engines and come up with 50,000 hits, 102,000  
22 hits, and even 450,000 hits. These are not all  
23 gambling sites.

24 That graph does not represent that  
25 there are 451,000 gambling sites. It represents

1 that there are over 450 (sic) web pages which  
2 contained the word "gambling."

3 And what's nice actually is given the  
4 nature of technology, when you search for a  
5 gambling site, you're also going to pull up web  
6 sites which offer help to compulsive gamblers or  
7 general background information as to how gambling  
8 operations work.

9 Because you're doing just a word search,  
10 you will pull up as a return gambling sites where  
11 you can gamble but also, "Do you have a problem  
12 gambling" web sites; or, What is the current law  
13 about gambling, because you're searching for that  
14 word. You can refine your searches to look for  
15 gambling web sites.

16 One of the things that you can do is  
17 just sit down at an Internet work station and  
18 type in search terms to see what comes back. So  
19 you could type in "gambling" and see what kind of  
20 sites you get.

21 You could type in "I don't like to  
22 gamble" or "I have a problem gambling" and it  
23 will take those words and put them together and  
24 return pages which have been associated with that  
25 search.

1                   Once you find a gambling site, you will  
2 be taken to that gambling site. You will see  
3 something like this. This is just a copy of a  
4 page. The actual sites themselves are very  
5 snazzy. They move; they sparkle; people dance  
6 around.

7                   Another example, the third example, what  
8 you will also see -- you can't read it from where  
9 you're sitting probably -- but they're printouts  
10 of these slides that have been circulated to you.

11                   There's a little button that says "open  
12 an account." And if you click on "open an  
13 account" once, you will get a screen that will  
14 ask for some personal information. You can put  
15 that personal information in. Click the button  
16 again, they ask for your billing information,  
17 including your credit card information.

18                   Click the button again, I now have an  
19 operating gambling account with my credit card.  
20 I chose to put in 24.95 as opposed to \$5,000, but  
21 I now have an operating gambling account.

22                   Click it again, I'm now going to enter  
23 the casino. I put in the information which I was  
24 just given in the last screen, I hit enter; now  
25 I'm in the lobby of the casino and I can gamble.



1                   And as I lose money, I can charge more.  
2                   And if I want my winnings back, I just say  
3                   withdraw this amount of money from my account  
4                   with you to my credit card balance. Five clicks.

5                   In summary, the Internet is in flux. It  
6                   is changing. It is a dynamic new business  
7                   frontier, and gambling enterprises are taking  
8                   advantage of that nature. Businesses are running  
9                   out to find new ways to do what they've been  
10                  doing, bad guys and good guys. It's an exciting  
11                  environment.

12                  In a recent newspaper article, the  
13                  Justice Department estimated that \$60 million  
14                  were bet on sports betting on the Internet in  
15                  1996. That increased to \$600 million the next  
16                  year. Tenfold increase in twelve months.  
17                  There's no reason to think that it will stop.

18                  In general, anyone, anywhere, at any  
19                  time can start gambling from any machine that  
20                  that person has access to. All they need is a  
21                  credit card. Thank you for your time.

22                  CHAIRPERSON GANNON: I have to leave for  
23                  a couple minutes, and I'm going to ask  
24                  Representative Caltagirone to chair the hearing  
25                  in my absence.

1                   ACTING CHAIRPERSON CALTAGIRONE: Thank  
2 you, Chairman Gannon. Questions from the  
3 Members? Representative Clymer?

4                   REPRESENTATIVE CLYMER: (No audible  
5 response.)

6                   CHAIRPERSON GANNON: Representative  
7 Manderino.

8                   REPRESENTATIVE MANDERINO: Thank you.  
9 Thank you, Mr. Sand. One of the comments that  
10 you made before you -- in the beginning of your  
11 presentation is that you can trace the pathway.  
12 And I know that both you and Professor Post  
13 before you talked about the complexity of I guess  
14 what you term the middleman.

15                   But I kind of got two different,  
16 distinct, I guess, feelings from the Professor's  
17 testimony and yours: One of a pathway that was  
18 very difficult if not impossible to trace versus  
19 one that was easy to trace.

20                   I'm classifying your characterization as  
21 an easy to trace. Maybe I am incorrect, but I'd  
22 like to hear your perspective on whether or not  
23 it is easy to trace the pathway from what you've  
24 been doing and what impacts obviously that would  
25 have from a legal point of view if any of this

1       legislation was being considered.

2               MR. SAND: I was speaking generally; the  
3 Professor was speaking specifically. When I was  
4 tracing the route from one end and to the  
5 another, I was showing only that there are larger  
6 roadways, smaller, and smaller.

7               So the general path of the information  
8 would go from where that person is located in one  
9 state or one chair to where the information is  
10 located, which would be somewhere else.

11              In fact, the information itself, as the  
12 Professor explained, gets broken up almost  
13 immediately into very small pieces. And each one  
14 of those pieces take an entirely different route.  
15 So it's not like a phone call, which is an open  
16 line which stays open.

17              And if we were to look at that map, you  
18 would see a bright line path from one point  
19 to another.

20              REPRESENTATIVE MANDERINO: Where all the  
21 information traveled together?

22              MR. SAND: And that path becomes live  
23 during the entire time of that transaction phone  
24 call. Internet traffic in general gets broken  
25 up, and each of these can take its own path.

1           There are some technical advantages to  
2           that because if one of the roads is closed, all  
3           the pieces just kind of move around in it and go  
4           in a different -- that's one of the reasons it  
5           was built that way.

6           REPRESENTATIVE MANDERINO: Taking that  
7           as a reality of how the Internet works, now we  
8           look at a proposed law or regulation of either  
9           the content of or the content of particular  
10          information or the -- the actual, I guess -- the  
11          enterprise as you used your term of a particular  
12          entity, what legal ramifications do you see from  
13          a prosecutor's point?

14          We talked about privacy issues. We  
15          talked about in some of the questions and answers  
16          search warrant issues and how would you  
17          practically even get that information if it was  
18          at all possible. I wonder if you've given any  
19          thought to those issues?

20          MR. SAND: I'll give you a general  
21          response. I would go back to the different  
22          perspective and I'd classify -- categorize that  
23          question from one of those perspectives. That's  
24          a legal question; that's a technical question. I  
25          would classify that question as a legal question.

1           At which point, I would even go to the  
2           technology for a minute and I would ask, What is  
3           the goal here? The goal is to prevent gambling  
4           sites from allowing Pennsylvanians to place bets.  
5           That's the legal goal.

6           At that point, it becomes a question of  
7           technical enforcement. How do you go about doing  
8           that. But I wouldn't address the technical stuff  
9           when I'm having a legal conversation. So I would  
10          say --

11           REPRESENTATIVE MANDERINO: Okay. Then  
12          let's have a couple legal conversations. One of  
13          the legal conversations presented by 2271 is how  
14          do I prevent Pennsylvanians, users, from gambling  
15          online? Okay?

16           MR. SAND: I would look at -- I would  
17          look at the different ways the gambling sites  
18          take bets. The one I demonstrated earlier  
19          requires the user to fill out account information  
20          first. You must register. In registering, I had  
21          to put in my address.

22           REPRESENTATIVE MANDERINO: Well, I saw  
23          you did on this one. I wonder how many others  
24          you might have checked out and whether or not at  
25          some point all of them wanted that information

1 from you?

2 MR. SAND: Each one is different. I  
3 didn't compile any statistics on how many do it  
4 this way and how many do it another. We could do  
5 that. One of the challenges is keeping track of  
6 all of that.

7 Because technically, you can start a  
8 gambling web site, you know, in 15 minutes, take  
9 some money -- and this is a pessimistic view,  
10 obviously -- take in the bets and then disappear.  
11 Which, you know, as a law enforcement agency, we  
12 may have three days to find out that it exists,  
13 find out what they did, and then find out where  
14 they went. That's an enforcement issue.

15 From a legal standpoint, that's just a  
16 question of investigative effort. I'm astounded  
17 at how police officers find people all the time.  
18 I have no idea how they do it. But it's not a  
19 technical -- it's not a legal issue. It's a  
20 technical problem.

21 Given that this is wrong, how do you go  
22 about finding people who did bad things?

23 REPRESENTATIVE MANDERINO: So if  
24 somebody wants to define the legal question such  
25 as 2271 is, that it would be illegal for a user

1 from Pennsylvania to gamble online, then you're  
2 saying that you would have to devise  
3 the -- well --

4 MR. SAND: The mechanism for enforcing.

5 REPRESENTATIVE MANDERINO: Right.

6 Versus if somebody wants to define the legal  
7 issue as we don't want out-of-state or in-state  
8 companies defrauding Pennsylvania citizens.  
9 Different legal question --

10 MR. SAND: Different implementation, of  
11 course.

12 REPRESENTATIVE MANDERINO: -- different  
13 implementation, different constitutional and  
14 privacy issues involved?

15 MR. SAND: Sure. Depends on --

16 REPRESENTATIVE MANDERINO: And how do  
17 you see them?

18 MR. SAND: I could give my opinion.

19 REPRESENTATIVE MANDERINO: Yes, I would  
20 like to hear it.

21 MR. SAND: Not speaking on behalf of the  
22 office of Attorney General, I think there are  
23 legitimate privacy issues or legitimate  
24 constitutional issues. There has to be a proper  
25 balance of government role and private autonomy

1 in the United States.

2 I think that those issues have to be  
3 addressed when they arise. I would not front load  
4 all of the issues into a general conversation  
5 because in order to answer it, you have to look  
6 at all the specifics.

7 For instance, in the site that we looked  
8 at earlier, there was a decisive record keeping  
9 process by the enterprise on who is gambling.  
10 And so at that point, that would trigger the  
11 issue which was discussed in depth earlier which  
12 is, Which direction is the activity going?

13 Is it a user going out of Pennsylvania  
14 into Oregon, driving, you know? Is the flow of  
15 activity across the Internet from the user to the  
16 enterprise or is the flow of the activity from  
17 the enterprise to the user? Is the enterprise  
18 reaching into Pennsylvania to try and get  
19 Pennsylvania business?

20 The current thinking is you look at it  
21 case by case. You look at how much activity is  
22 going past. Are they keeping a guest book  
23 record? Do they send out fliers, new  
24 announcements? Are they pushing information  
25 towards the people?



1           At that point, you would discuss the  
2 constitutional issue. Which one is it? Do you  
3 have jurisdiction? But in a situation where you  
4 have a gambling enterprise which is physically  
5 located in Pennsylvania and the people placing  
6 bets are in Pennsylvania, then you don't have to  
7 address that issue.

8           So I would kind of look at it from the  
9 back end; in other words, what is it that you're  
10 trying to stop, what are the examples of bad acts  
11 that you're going after, and what issues are  
12 raised by those -- by the activities of those  
13 persons? It's playing legal issues against  
14 technical issues against business issues.

15           And they're obviously related because  
16 technical issues raise legal issues. And in  
17 order to accomplish either of those, you have to  
18 look at the technology behind it. But I would  
19 start in the detailing. So given exactly what's  
20 happening, what are the larger issues which are  
21 raised by that?

22           REPRESENTATIVE MANDERINO: Okay. Let's  
23 do that. I'm Joe Citizen of Pennsylvania. I  
24 don't presume to know the minds of all  
25 Pennsylvanians. But knowing what I hear from my

1 constituents, I would guess that the majority of  
2 Joe Average Pennsylvanians -- let's go to the Ken  
3 Star subpoena of Monica Lewinsky's book records.

4 Joe Average Citizen of Pennsylvania my  
5 guess would be would say, I don't think  
6 government or anybody should be able to get a  
7 copy of my credit card charges to see what books  
8 I bought.

9 So I'm assuming, Joe Average Lawmaker,  
10 that Joe Average Citizen would not want me to  
11 know every Internet site he or she is hitting  
12 from their homes. They'd say, It's none of your  
13 business, Madam Lawmaker.

14 At the same time, I think Joe Average  
15 Citizen if they hit an Internet site -- just as I  
16 suspect my constituents wouldn't want me or  
17 government or anybody knowing -- thinking that  
18 it's my business to know what they are or aren't  
19 doing with their computer in their home.

20 I also think that if they did something  
21 with their computer in their home that defrauded  
22 them of a hundred or a thousand or ten thousand  
23 or two cents, I hear about it; and I'd hear, And  
24 what are you going to do about it.

25 So I'm sitting here looking at this

1       problem saying from a practical point of view I'm  
2       more concerned about somebody who has cheated or  
3       defrauded my constituent from money than I am  
4       about what my constituents's doing.

5                Because that's what I think my  
6       constituent's going to think my role as a  
7       lawmaker is. This is just my perspective on the  
8       world. A different lawmaker may have a different  
9       one.

10               If that's the case, then my question is,  
11       Do we -- I'm making the assumption for you that  
12       we might have a legitimate -- let's assume we  
13       have a legitimate role in making sure citizens of  
14       Pennsylvania aren't cheated or defrauded, okay.

15               Now, my question is, Given what you know  
16       about the technical part of the computers, the  
17       Internet, cyberspace, and all this kind of stuff,  
18       what, if anything, can I as the Commonwealth of  
19       Pennsylvania do about that?

20               MR. SAND: I'll give you two different  
21       answers: Legal answer; technical answer.  
22       Legally, I would say my response to that person  
23       would be, We're not interested in your personal  
24       activities. We're interested in the activities  
25       of the bad guy. So tell us who the bad guy is

1 and what they did.

2 Then I would address my attention to the  
3 bad guy and say there have been these complaints.  
4 In fact, we have a Bureau of Consumer Protection  
5 in the Attorney General's office; and that bureau  
6 just does that. It's part of the larger public  
7 protection division, and that's what they do.

8 They say, There has been a complaint  
9 against you, business, for doing something bad  
10 against an individual. How do you respond?

11 REPRESENTATIVE MANDERINO: So how do I  
12 legally -- how do I legally respond to protecting  
13 my citizens from being defrauded by Internet  
14 businesses involved in gambling or Internet  
15 businesses involved in anything for that matter,  
16 I guess?

17 MR. SAND: The first step would be to  
18 find out exactly what happened, and the second  
19 step would be to find out exactly who did what  
20 and where are they located and to prosecute  
21 accordingly.

22 REPRESENTATIVE MANDERINO: So am I  
23 hearing you say all the laws are on the books  
24 now to do that?

25 MR. SAND: Sure.

1           REPRESENTATIVE MANDERINO: So we don't  
2 need any laws to do that? If my goal is to  
3 protect citizens from being defrauded, you don't  
4 need any new tools to do that?

5           MR. SAND: There are existing tools to  
6 cover the substantive wrongdoing. My  
7 understanding of the goal behind the current  
8 legislation is to fine-tune those tools to go  
9 after specific types of wrongdoing or to refine  
10 those tools, to sharpen the edges to address the  
11 new environment, which is the Internet.

12           How do you work out the technical issues  
13 from the legal perspective.

14           REPRESENTATIVE MANDERINO: Right.

15           MR. SAND: So I would hesitate to  
16 comment as to the validity or the value of either  
17 of these pieces of legislation. My understanding  
18 is that that they are focused on sharpening the  
19 existing legal structure to address these new  
20 specific situations.

21           REPRESENTATIVE MANDERINO: Okay. Thank  
22 you. I don't want to monopolize anymore, but I  
23 guess I would throw back to the Attorney  
24 General's office for a future date is -- my  
25 question is, If my goal is protecting

1        Pennsylvania citizens from being defrauded or  
2        cheated by Internet activities, I want to know  
3        does Pennsylvania -- will prosecutors have the  
4        tools that they need to adequately do that?

5                    And if so -- and I'm not interested in  
6        passing new legislation. But if you tell me  
7        based on your experience or what you know of the  
8        technical aspects of the Internet there are some  
9        tools that we would have to give you in order for  
10       you to be successful to pursue the goal that I  
11       defined, not defrauding Pennsylvania citizens via  
12       the Internet, then I need to know what those  
13       additional tools are, because today I don't know  
14       that.

15                   MR. SAND: I could give you a short  
16        response. It's a question of which body of  
17        government is better suited to do that extra  
18        work.

19                   Because the real work involved is making  
20        the argument that the new activity, gambling on  
21        the Internet, is the same type of activity which  
22        occurs in the traditional environment. That's an  
23        argument. That's a position.

24                   My personal feeling is that it would be  
25        easier to write that logical connection down than

1 to try and argue it in court. Therefore, if we  
2 need better tools, rather than fashion them on a  
3 ad hoc basis, it would be better to have a  
4 specific, written, in-depth explanation on why  
5 these tools are better for this environment.

6 REPRESENTATIVE MANDERINO: Thank you.  
7 Thank you, Mr. Chairman.

8 ACTING CHAIRPERSON CALTAGIRONE:  
9 Representative Feese and then Representative  
10 Clymer.

11 REPRESENTATIVE FEESE: Thank you,  
12 Mr. Clymer. Mr. Sand, following up on that  
13 question about proving who the person was placing  
14 the bet, in the event that we would want to  
15 prosecute the person under House Bill 2271, the  
16 slide or screen you showed the credit card  
17 information, address maybe -- I'm not sure.  
18 Assuming it showed address -- we're still left  
19 with the problem of, (1), proving where that  
20 person was when the bet was made, I would think,  
21 and who actually made the bet, will we not be?

22 So the credit card information in and of  
23 itself at the casino site isn't enough to  
24 prosecute the better. We would still need to  
25 prove beyond a reasonable doubt that person was

1 in Pennsylvania.

2 So we'd have to go back to the search  
3 warrant process, I would think, through the  
4 server and then ultimately through to that  
5 computer and, (2) some proof that the person  
6 whose credit card was used actually made the bet  
7 on that computer. Would that be right?

8 MR. SAND: That's certainly the  
9 challenge. I would throw into that just this  
10 comment: It would depend on what the exact  
11 language of the law at issue is.

12 If it is to prevent the taking of bets  
13 from people who are residents of Pennsylvania,  
14 then one would argue that the fact that the  
15 credit card billing information showed a  
16 Pennsylvania address that is notice that that  
17 person is a resident of Pennsylvania.

18 In terms of the -- that's a little out  
19 of my area. But I suggest it depends on how many  
20 steps you actually have to walk through to  
21 connect the physical location of the betting  
22 enterprise, the physical location at the time of  
23 the bet of the person placing the bet.

24 If you just have to show that there was  
25 a residency in Pennsylvania, you may be able to



1 skip some of that stuff.

2 REPRESENTATIVE FEESE: I was setting  
3 aside prosecution against the casino and looking  
4 at prosecution against the better.

5 MR. SAND: It's certainly a challenge.

6 REPRESENTATIVE FEESE: I don't know that  
7 we could prosecute -- have a Pennsylvania  
8 resident prosecuted because they placed a bet on  
9 the Internet simply because they're a  
10 Pennsylvania resident. I think you would still  
11 have to prove that it was done in Pennsylvania  
12 and that they did it.

13 They could cross into another state and  
14 place a bet if it's legal there on the Internet.  
15 Or I would think they'd be subject to that  
16 state's laws. So I'm struggling as you can see  
17 with how we prosecute to have any deterring  
18 effect.

19 MR. SAND: There's a inherent lag time  
20 between what you can do technically from a  
21 business standpoint and what you ought to do from  
22 a legal standpoint; and your question goes right  
23 to that lag time, which is, yes, you can do this;  
24 but should you? How do you know?

25 Because the Internet itself is driven

1 by technology and enthusiasts who wanted to see  
2 what they could do and what the technical  
3 problems are, which is geography, time. They  
4 solved those problems technically, the problems  
5 that generated legal problems, which is I think  
6 why we're here today.

7 REPRESENTATIVE FEESE: Thank you.

8 REPRESENTATIVE CLYMER: Thank you,  
9 Mr. Chairman. Welcome, Mr. Sands, to this public  
10 forum. You have indicated through the slides  
11 that there is an agreement among all of us that  
12 this is a mushrooming problem.

13 Your figures show that \$60 million in  
14 Internet gambling in one year then in 1997, 600  
15 million. So we know that we are running a race  
16 that we may not win if we don't act quickly  
17 enough.

18 Have you been interacting, do you know,  
19 with the Attorney General, with other attorney  
20 generals throughout the state? Could you give us  
21 a sense of whether or not this is something that  
22 other states are concerned about other than we  
23 know of New York City and Minnesota and  
24 Missouri?

25 This Internet gambling, is it something

1 that at the present time is only being  
2 demonstrated as a concern by four or five states  
3 or do you know if other states are involved in  
4 this issue?

5 MR. SAND: The National Association of  
6 Attorneys General has a special committee focused  
7 solely on the issue of Internet gambling, so it  
8 is a national concern.

9 REPRESENTATIVE CLYMER: We're looking  
10 at -- in my particular bill, House Bill 2438,  
11 we're trying to prohibit Internet gambling, the  
12 transmission of the online gambling taking place  
13 in Pennsylvania. And that's the purpose,  
14 obviously.

15 My question is, Is the federal law  
16 that's the John Kyl Bill 471 that I alluded  
17 to -- I'm not sure how well you're acquainted  
18 with it -- would that help to resolve the problem  
19 for Pennsylvania if that bill were to pass with  
20 its various prohibitions and then giving the  
21 Attorney General of the United States more  
22 discretion in trying to solve this problem?

23 MR. SAND: I can speak to that based on  
24 my personal reading without stating an official  
25 position of the office. My understanding is that

1 the current draft of the Kyl bill, the federal  
2 legislation, prohibits the transmission of  
3 betting transaction information across state  
4 lines.

5 Therefore, once the information  
6 is -- based on my reading so far, once the  
7 information crosses a state line it becomes a  
8 federal issue. That leaves open wholly  
9 intrastate Internet-type gambling environments,  
10 over the wires gambling activity.

11 It gets kind of complicated because  
12 you'd have to understand exactly how they're  
13 doing it. Is the wire going from one building  
14 directly to the other? Does it touch the  
15 Internet at all?

16 I can speak to that at a certain depth  
17 level, but there certainly is a point where the  
18 federal issues have to be resolved and the state  
19 issues have to be resolved. And there may be  
20 some overlap at this point. I don't know what  
21 it's going to end up looking like.

22 REPRESENTATIVE CLYMER: This is we're  
23 going into really uncharted waters. This is  
24 new for all of us. But at the same time, we  
25 stand still for the reasons that I just alluded

1 to. We can't stand still and do nothing. We  
2 have to begin to try to move forward with some  
3 kind of legislation.

4 It probably will be tested in the courts  
5 if the Bill 2438 should be enacted. But we have  
6 to move forward and protect Pennsylvanians,  
7 because I think this is a problem that's going to  
8 come upon us much more quickly.

9 The severity of the problem is going to  
10 come upon this state -- not only Pennsylvania,  
11 but other states -- much more quickly than what  
12 they realize.

13 And if we don't have something in place  
14 to try to provide our top law enforcement  
15 officers in Pennsylvania as you've indicated in  
16 your conversation with Representative  
17 Manderino, to sharpen the tools that you need to  
18 prevent this from occurring in the state, this  
19 addiction, the ongoing addiction of gambling and  
20 what it can do and has already done I'm sure to a  
21 number of Pennsylvanians that we're just not  
22 aware of, we're going to be -- the train's going  
23 to leave and we're going to be standing there at  
24 the station. That was just a comment. Any other  
25 thoughts on the issue?

1 MR. SAND: It's very complicated.

2 REPRESENTATIVE CLYMER: Thank you.

3 ACTING CHAIRPERSON CALTAGIRONE: Thank  
4 you. Since there are no further questions, we  
5 appreciate your testimony. We'll take a  
6 five-minute break for the stenographer and resume  
7 in five minutes.

8 (At which time, a brief break was taken.)

9 CHAIRPERSON GANNON: We are ready. For  
10 the record, I wanted to note that Representative  
11 Harold James from Philadelphia has joined the  
12 panel, a member of the Judiciary Committee. And  
13 we can now proceed with the next testimony.  
14 Would you identify yourself?

15 MR. CHAFFEE: My name is Tom Chaffee.  
16 I'm a Vice President of Ladbroke Racing in  
17 Pennsylvania. And joining me today is Dick  
18 Gmerek, our counsel. Good afternoon, Chairman  
19 Gannon, Representative Clymer, and Members of the  
20 House Judiciary Committee.

21 Thank you for providing me this  
22 opportunity to address the House of  
23 Representative Judiciary Committee hearing this  
24 afternoon and to contribute to the formulation of  
25 responsible and effective legislation in

1 Pennsylvania.

2 As an executive with Ladbroke Racing of  
3 Pennsylvania overseeing the account wagering  
4 operations, I am keenly interested in  
5 developments of House Bills 2271 and 2438.

6 While similar in their intent to  
7 prohibit online gambling or gambling by computer,  
8 they are significantly different in that House  
9 Bill 2438 exempts the highly regulated and  
10 policed pari-mutuel industry while House Bill  
11 2271 does not include this important exemption.

12 We are respectfully submitting and  
13 requesting that House Bill 2271 be amended to  
14 exclude the Pennsylvania horse racing pari-mutuel  
15 industry so that it will not negatively impact an  
16 industry which in the last ten years through  
17 forward thinking legislation has allowed us to  
18 remain competitive.

19 Horse racing is significantly different  
20 than other forms of gambling. The House has no  
21 stake in whether the players win or lose. In  
22 racing a pari-mutuel game, revenue to the  
23 operator is based on volume, not outcome.

24 More importantly, pari-mutuel wagering  
25 is legal and fully recognized by state regulators

1 and racing commissioners. States throughly  
2 regulate and audit the industry with many  
3 safeguards mandated and monitored to protect the  
4 public.

5           Pari-mutuel wagering has operated over  
6 state boundaries for nearly 30 years. Since  
7 1971, customers in one state have had the  
8 state-sanctioned right to make pari-mutuel wagers  
9 on races run from another state.

10           Since 1983 in Pennsylvania, there has  
11 been legal Telephone Account Wagering. Since  
12 1986 in Pennsylvania, intrastate wagering has  
13 been available with the audio and video and  
14 data presentation of the live racing called  
15 simulcasting.

16           And more recently since 1993 in  
17 Pennsylvania, interstate wagering known as  
18 full-card simulcasting has been available.  
19 Account wagering operations are presently legal  
20 in eight states, including Connecticut, Kentucky,  
21 Ohio, Maryland, New York, Nevada, Oregon, and  
22 Pennsylvania.

23           Of the states that actively operate full  
24 account wagering facilities, all accept customers  
25 from outside their own state. Just like a



1 customer located in-state, out-of-state customers  
2 can wager on any track carried by the account  
3 wagering facility by using the telephone to  
4 communicate with the wagering facility.

5 Funds must be on deposit with the  
6 licensed wagering facility in the state where the  
7 wager is being accepted. Legislation restricting  
8 the Pennsylvania horse racing pari-mutuel  
9 industry would prevent the natural technological  
10 evolution of pari-mutuel wagering by prohibiting  
11 the use of computer technology to do what has  
12 been done for 15 years by telephone today.

13 This technology has the ability to allow  
14 the Pennsylvania Horse Racing Industry to  
15 increase revenue by exporting and importing  
16 simulcasting to a world wide market.

17 In 1997, over \$100 billion was wagered  
18 on horse racing around the world. The United  
19 States represented just 15 percent of that total,  
20 despite having the best horses and races in the  
21 world. Through new technology, we have the  
22 opportunity to tap this market.

23 The advances of technology have created  
24 a golden opportunity for the Pennsylvania horse  
25 racing industry. In fact, we are positioned to

1 reintroduce and repackage the sport of kings to a  
2 newer, savvy, and more computer-friendly  
3 audience.

4 As we have successfully seen in this  
5 decade in Pennsylvania, racing has grown from an  
6 on-track business to an off-track business. The  
7 advent of new media and technology will serve as  
8 the next natural progression of racing's  
9 distribution in a safe and exciting way.

10 The effective use of computer systems  
11 in technology is key for all modern business  
12 today. Ladbroke Racing has invested  
13 significantly over the years to create and  
14 capitalize on these future opportunities.

15 I have personally spent the last four  
16 years researching and investigating the  
17 opportunities to safely and responsibly move our  
18 business ahead. In the last year, we  
19 successfully developed a relationship with a  
20 company called the You Bet Racing Network.

21 You Bet is a publicly-traded Las  
22 Angeles-based technology company. You Bet  
23 developed and deployed the first PC-based  
24 wagering system and transaction processing  
25 software in the world.

1           It operates and integrates with our  
2 existing account wagering operations the same way  
3 our customers have used the telephone since 1983.  
4 We selected You Bet for reasons related to  
5 security, performance, regulation, and their  
6 ability to deliver the service through a private  
7 network.

8           This means it is not on the Internet and  
9 members cannot access the Internet from the  
10 network and vice versa. Implementation of the  
11 agreement was subject to and met with the  
12 approval of the Pennsylvania Harness Racing  
13 Commission. In addition, it has been approved  
14 and endorsed by our Meadows Horsemen's  
15 Association.

16           We believe this unique opportunity has  
17 positioned our company and Pennsylvania to  
18 continue to take a leadership role in keeping our  
19 industry viable and competitive.

20           In summation, we are certainly in favor  
21 of legislation to cover or eliminate activity  
22 already deemed illegal to close loopholes or  
23 black holes the Internet has created for the less  
24 than reputable persons or businesses.

25           However, as you consider House Bill

1 2271, we ask you to exclude the Pennsylvania  
2 Horse Racing Pari-mutuel industry so this already  
3 highly and responsibly regulated industry may  
4 take advantage of the technology and remain  
5 competitive. Thank you very much.

6 CHAIRPERSON GANNON: Any questions?

7 MR. CHAFFEE: If I may add -- excuse me.  
8 It may be worthwhile to have Mr. Green from  
9 Philadelphia Park make his presentation and have  
10 us both answer questions at the same time because  
11 there are certainly ones that he is more likely  
12 to answer than I will be.

13 CHAIRPERSON GANNON: Certainly,  
14 Mr. Green.

15 MR. GREEN: Unfortunately due to some  
16 scheduling difficulties that I've had, I've been  
17 unable to prepare a written testimony for the  
18 Committee; so my remarks will be somewhat off the  
19 cuff.

20 But I would hope to be able to give you  
21 a formal written testimony within the next week;  
22 but, unfortunately, I've not just had the  
23 opportunity of doing it before today.

24 So I apologize if the testimony that I  
25 give you is somewhat less polished than the

1 people that have gone before me. Mr. Chairman,  
2 Representative Clymer, Members of the House  
3 Judiciary Committee, thank you for allotting me  
4 some of your time today.

5 By way of introduction, I'm the  
6 president of Greenwood Racing; and our company is  
7 the owner of Philadelphia Park Race Track. We  
8 operate five off-track wagering facilities that  
9 we call turf pops (phonetic), and we also have a  
10 significant Telephone Account Wagering operation.

11 Philadelphia Park is the major  
12 thoroughbred race track in the Commonwealth, and  
13 we account for almost half of the pari-mutuel  
14 wagering that goes on in this state.

15 We have invested in Pennsylvania  
16 approximately \$110 million and we've also created  
17 approximately 1,000 new jobs since we came here  
18 in 1990 and we're now responsible both directly  
19 and indirectly for something like 4,000 jobs.

20 Our growth, whether it's been by  
21 off-track wagering or whether it's been by  
22 Telephone Account Wagering, has really been  
23 fueled by the utilization of technology. So in  
24 any event, we have more than a passing interest  
25 in this important issue and very topical one

1 that's before you today.

2 The bills that you have under  
3 consideration are essentially designed to  
4 prohibit gaming on the Internet. House Bill  
5 2438 is slightly more detailed and also contains  
6 a paragraph on applicability that precludes both  
7 pari-mutuel wagering on horse racing and the  
8 state lottery from the provisions of the bill.

9 Up front and quite clearly I want to say  
10 to you that if such a piece of legislation is  
11 considered it is in my view absolutely essential  
12 that those gambling activities that are properly  
13 authorized under the law and are regulated by the  
14 state are completely excluded from the provisions  
15 of the bill.

16 I said earlier that the development of  
17 our business has been fueled by technology, and  
18 information is the most critical element of the  
19 way that technology is used in our business.

20 It's not static information. It is  
21 continually moving information in the way the  
22 odds move and the way changes are made in the  
23 going and the number of runners and the weights  
24 that particular horses have to carry in much the  
25 same way that information is critical for

1 somebody that wants to buy stocks and shares.

2 Information is critical for the person  
3 who wants to wager on a horse race. It's an  
4 intellectual and skilled exercise that people  
5 have access to, and you need to give them access  
6 to as much information as you possibly can.

7 Just to give you some indication of how  
8 that information is disposed, we have a couple of  
9 subsidiary companies that develop chip  
10 technology.

11 We have a company called Infotext that  
12 actually provides updated data information to  
13 other race tracks and, in fact, to all of the  
14 Atlantic City Casino Race Course. And they  
15 rely on us for their information on racing that  
16 takes place around the country.

17 Last year we established a web site for  
18 information purposes so the people could keep up  
19 to date on what happens at race tracks around the  
20 country in terms of the number of runners,  
21 results, et cetera. So this is just a very -- a  
22 new development.

23 And I called up before I came here a  
24 summary of last week's activity just to give you  
25 some idea. This is a, you know, a fairly new web

1 site. The number of what is called "hits" on this  
2 web site last week totaled 282,901. That's an  
3 average number of hits of approximately 300,000  
4 hits per day.

5 89 percent of those hits came from  
6 within the United States. 11 percent came  
7 internationally. And the countries that  
8 contributed to that 11 percent were Canada,  
9 Australia, Hong Kong, Japan -- I should say China  
10 I suppose, not Hong Kong anymore -- Japan, UK,  
11 Sweden, New Zealand, Germany, Argentina, France  
12 and Ireland.

13 So I think that just give you an example  
14 of how widespread the use is of the technology.  
15 I'm not addressing the issue of whether it's  
16 right or wrong to actually place casino-styled  
17 wagers over the Internet. I think that's a  
18 separate issue that we can come on to.

19 But I think it's important to realize  
20 the growth of this phenomenon and how people are  
21 using it in their, you know, if you like,  
22 everyday activities as opposed to more specific  
23 activities.

24 The Chairman referred earlier and  
25 Representative Clymer referred earlier to the



1 proposed Kyle bill, which is a piece of federal  
2 legislation that's currently before the Senate.

3 And we've made various comments and had  
4 input in respect to that piece of legislation  
5 because we were very concerned about its impact  
6 on the apparently legal racing pari-mutuel  
7 industry in the United States.

8 And I think it would be useful because  
9 these remarks actually impinge upon what the  
10 professor from Temple said earlier. And this is  
11 a letter which I'm going to quote from out  
12 verbatim and just about three paragraphs from the  
13 U.S. Department of Justice, their office of  
14 Legislative Affairs.

15 And it's a letter that was published on  
16 May the 26th, and it was sent to Senator Patrick  
17 Leahy. The Justice Department said, We believe  
18 that any legislation addressing criminal misuse  
19 of computers -- I'm sorry. Let me begin -- let  
20 me introduce their remarks by saying, We  
21 recognize that the Internet may have diminished  
22 the effectiveness of current gambling statutes in  
23 part because they may relate only to sports  
24 betting and not the type of interactive gambling,  
25 for example, poker, that the Internet makes

1 possible.

2           Therefore, we generally support the idea  
3 of amending the federal gambling statutes. We  
4 believe, however, that there is considerable  
5 value in waiting until the National Gambling  
6 Impact Study Commission has concluded its study  
7 of the scope of Internet gambling before passing  
8 any new legislation that would change the way in  
9 which Internet gambling is regulated or  
10 prohibited.

11           So they make, if you like, a general  
12 point that they think this is premature until  
13 the National Commission has reported. That said,  
14 they go on to say, We do believe that any  
15 legislation addressing criminal misuse of  
16 computers or computer systems, including the  
17 Internet, should share three important  
18 characteristics:

19           First, legislation should, absent some  
20 articulate reason, treat physical activity and  
21 cyber activity in the same way. If activity is  
22 prohibited in the physical world but not on the  
23 Internet, the Internet becomes a safe haven for  
24 that criminal activity.

25           On the other hand, it may be equally

1 hard to explain why conduct that is not a federal  
2 crime in the physical world suddenly becomes  
3 subject to federal criminal sanction when  
4 committed in cyberspace.

5 Second, legislation -- and I think it is  
6 a very important point -- legislation should be  
7 technology neutral. Technology tied to a  
8 particular -- I'm sorry -- legislation tied to a  
9 particular technology may quickly become obsolete  
10 and require further amendment.

11 Last, it is critical that the law  
12 recognizes that the Internet is different from  
13 prime modes of communication in that it is a  
14 multi-faceted communications medium that allows  
15 for both point-to-point transmission between two  
16 parties, like the telephone, as well as the  
17 widespread dissemination of information on a  
18 vast -- to a vast audience like a newspaper.

19 As a result, any prohibitions that are  
20 designed to prohibit criminal activity on the  
21 Internet must be carefully drafted in a way that  
22 accomplishes the legislation's objectives without  
23 stifling the growth of the Internet or chilling  
24 its use as a communications medium.

25 So there, if you like, three specific

1 characteristics that the Justice Department says  
2 should be paramount in considering legislation;  
3 but they begin their remarks by saying they don't  
4 think legislation even at a federal level is  
5 appropriate at this time with the National  
6 Commission, which is currently holding meetings  
7 all around the country to get input from various  
8 sections of the industry.

9           Having said that, if a piece of  
10 legislation is to be considered, that in my view  
11 it must contain, as Bill 2438 does, a  
12 preconclusion that excludes the legalized  
13 pari-mutuel industry from the bill.

14           And assuming that that is taken on  
15 board, what do we think of the Bill anyway? And  
16 I think my remarks mirror to some extent the  
17 remarks made earlier by the Professor in that I  
18 think there's got to be extreme caution in the  
19 way that any of this legislation is drafted.

20           For example, if you don't exclude the  
21 lottery and the legalized pari-mutuel industry,  
22 it's like throwing the baby out with the  
23 bathwater.

24           In other words, we can sit around in a  
25 room and say we don't want our children or

1 teenagers to get their parents' credit card and  
2 switch on the computer and start playing a dice  
3 game or blackjack on the computer.

4 We can say that that isn't something  
5 that we approve of or we like and it should be  
6 banned; or we can say, well, we've got to  
7 regulate it and license it and try and deal with  
8 it in a proper manner.

9 One of the interesting statistics that  
10 struck me that was provided by the Attorney  
11 General's office which was taken from the Justice  
12 Department's figures -- and the Justice  
13 Department are notoriously conservative in these  
14 numbers -- was that 600 million -- and  
15 Representative Clymer picked this up, but he  
16 didn't pick it up all the way.

17 In fact, it was 600 million that was bet  
18 on sports betting over the Internet. Now, I  
19 think that's a conservative number. But even if  
20 it is, it probably means that 60 billion is bet  
21 on sports betting because the vast majority of  
22 sports betting is not conducted over the  
23 Internet; it's conducted over the telephone.

24 And most gamblers pick up a telephone to  
25 make a bet. They don't do it through a computer.

1       So we've got a situation where \$60 billion is bet  
2       on the sports at least in this country according  
3       to the Justice Department or according to my  
4       interpretation.

5               That's crazy. That's absolutely  
6       madness. And what's happened is in their wisdom,  
7       Congress has said sports betting is wrong.  
8       Sports betting should be criminalized and made  
9       illegal. But we know that that's the case, but  
10      it hasn't stopped sports betting.

11             In fact, sports betting is more popular  
12      than ever before. When the NFL season begins in  
13      September, you pick up the Washington Post or the  
14      New York Times or the Philadelphia Enquirer and  
15      you'll see the odds.

16             Why are they there? Why are the odds  
17      published for every NFL game in the most  
18      prestigious newspapers from LA to New York every  
19      time there's a game? Because people want that  
20      information because they want to have their own  
21      on sports betting.

22             But the prohibition of sports betting  
23      has not stopped sports betting. What it's done,  
24      it's criminalized it; it sends it underground;  
25      and, quite frankly, it's not writing a bill of

1 rights for the Gambino or the Genevese Family.  
2 They're the people who are going to prosper from  
3 that situation.

4 Now, I'm not saying this is identical.  
5 But one of the cautions I'm throwing out is be  
6 careful about prohibiting something that people  
7 are actually doing and feel that they are  
8 comfortable about doing because you can send it  
9 underground, you can send it into the wrong  
10 hands.

11 And I strongly believe that all gambling  
12 should be properly licensed, properly regulated,  
13 looked at with a very, very close eye by the  
14 state and by federal regulators and legislators.  
15 I strongly believe in that because it's an area  
16 which should be regulated and should be  
17 controlled.

18 We could -- I'll give you the analogy of  
19 sports betting. I could give you another one in  
20 respect to tobacco. I mean, what do we about  
21 tobacco? We should say, Shouldn't we prohibit  
22 the sale of tobacco. Now, it's unhealthy; it  
23 kills many of us; it's responsible for far more  
24 deaths than heroin; it makes vast profits for the  
25 manufacturers.

1           But we don't prohibit it because we know  
2           what would happen if we did. We would just  
3           simply send it underground and it would be  
4           controlled by organized crime. So we don't do  
5           that.

6           What do we do instead? What we do is we  
7           tax the hell out of it, No. 1; Secondly we  
8           discourage it's use by limiting advertising, by  
9           putting warnings on packets, by restricting the  
10          places where it can be used, and also by a vast  
11          public education program which many would  
12          consider is not nearly enough. But that's what  
13          we do about it.

14          So, again, the whole question of  
15          prohibition in the same way as what happened with  
16          alcohol, what I'm telling you did happen with  
17          sports betting, what could happen with tobacco,  
18          once you get into this area of prohibition, you  
19          have to walk extremely carefully; and that's what  
20          I would advise.

21          I remember growing up -- and I'm sure my  
22          mother would now turn in her grave -- told me  
23          the worst three things were smoking, drinking, and  
24          gambling. And if she knew the profession I was  
25          now in and the fact I've done all of those



1 three things, sometimes to my shame to excess;  
2 but I'm still here and still alive and still  
3 operating a business.

4 And I think we have to be careful in the  
5 whole realm, as I said, of prohibition, first of  
6 all that we don't throw the baby out with the  
7 bathwater -- in other words, the proper regulated  
8 and controlled industries are properly  
9 protected -- and, secondly, we should look very  
10 carefully if this legislation went through what  
11 the, if you like, secondary and tertiary effects  
12 would be if it did get passed.

13 Thank you for your time, and I'm happy  
14 together with Mr. Chaffee to answer any  
15 questions.

16 CHAIRPERSON GANNON: Thank you.  
17 Representative Clymer.

18 REPRESENTATIVE CLYMER: Thank you very  
19 much, gentlemen, for joining us this afternoon.  
20 My question is partly a question and partly a  
21 comment as it relates to Mr. Green, the President  
22 of the Greenwood Racing; and that is, The purpose  
23 of the legislation that we're proposing today, at  
24 least in my legislation, House Bill 2438, as you  
25 have mentioned that gambling should be regulated,

1       there should be permitting, there should be  
2       taxes, there should be identification of who owns  
3       the corporation as to who the principles are,  
4       those are things that I have no quarrel with.

5                 But that's the exact reason that we are  
6       very concerned about the online betting that's  
7       taking place with those companies that there's a  
8       few in the United States, most of them are  
9       outside the United States, who are bringing their  
10      product, if you will, into Pennsylvania.

11                We don't know who they are. We don't  
12      know if they've been in business for six months  
13      or six years. We don't know if they're going to  
14      pay off if the person wins. They certainly will  
15      take their money if they lose, obviously. We  
16      don't know how many employees they have. And so  
17      they present a problem to us.

18                In addition, to reiterate what I said  
19      earlier, when you allow the transmission of  
20      online gambling into Pennsylvania and anyone can  
21      play, I mean, say what you will, we do have laws  
22      of age violation if they are playing the lottery,  
23      horse racing.

24                There's no age -- there is no age  
25      standards there. We can't prevent anyone from a

1 12 year old to a 14, to a 17 year old, to an  
2 older person from gambling. And, therefore, our  
3 vision here is to work with the Attorney General  
4 to say, We've got to stop this from happening  
5 because this is -- it's moving very quickly.

6 It's look a flood coming down from the  
7 mountain. If you don't ring the bell and alert  
8 the village dwellers that there's an avalanche  
9 coming down, it could create a lot of problems,  
10 hurt and harm a lot of people.

11 That's what we're experiencing, that's  
12 what we're seeing happening, and that's the  
13 reason for this legislation. Now, I do agree  
14 that we have to look at it carefully. We have to  
15 look at what it does or what it does not do.

16 As I said, again, we are moving in areas  
17 that are new for all of us because this is a new  
18 technological phenomenon: Online gambling,  
19 allowing people to gambling in their homes on  
20 their computer.

21 But I know that we have to move forward.  
22 We can't wait for someone else to tell us, well,  
23 you should have done that six months ago; you  
24 should have been on the ball twelve months ago.

25 So I guess that's the comment I need to

1       make. And if you have a response to that, that's  
2       fine; but we need to move forward on this issue  
3       so that we can protect Pennsylvanians.

4               MR. GREEN: I think much of what you say  
5       is valid and I would agree with. Clearly from a  
6       commercial perspective, one would assume that  
7       sitting in my position and assuming that there  
8       was a preclusion for pari-mutuel wagering that I  
9       would in support of this legislation because, if  
10      you like, it would knock a competitor out or  
11      potentially knock a competitor for the gambling  
12      dollar away.

13              What I'm saying is though that the  
14      approach I think that you need to take with  
15      this -- and I'm asking you to exercise the  
16      greatest caution -- is in the use of prohibition.  
17      You know, the very fact of a total prohibition on  
18      activity -- and I can't tell you what will  
19      happen.

20              I mean, we can only look historically at  
21      what happens when you prohibit something for  
22      which, whether you like it or not, I mean,  
23      whatever the moral issues of whether this is a  
24      good activity or a proper social activity -- put  
25      them to one side for a minute -- there is a

1 demand.

2           There wouldn't be a demand if, you know,  
3 without 600 million in a year being wagered on  
4 sports betting on the Internet. It proves a  
5 demand. What I'm saying is check whether the  
6 approach of prohibition is the correct approach  
7 to this.

8           Yes, we've got to make sure that these  
9 things, as far as we can, are licensed, are  
10 regulated, are taxed, we protect children and  
11 teenagers from, you know, whether it's smoking,  
12 drinking, or gambling that we have those systems  
13 as many as we can in place.

14           But I would urge extreme caution if you  
15 liken the approach -- I don't have a problem with  
16 what people are trying to do in a sense of, yes,  
17 there's got to be protections in place.

18           But if in the security of my own home I  
19 wish to turn on my computer and have a bet on a  
20 cyberspace roulette wheel and I'm comfortable  
21 with the person who is running that game, that I  
22 will get my money paid, I think there's an  
23 argument to say, well, why not?

24           Now, is the person who's running that  
25 game doing something illegal or am I doing

1 something illegal by turning on my computer and  
2 having a bet? So there's all sorts of legal and  
3 constitutional ramifications out there which are,  
4 you know, that's part of the worry that you've  
5 got.

6 The second I think worry you've got is  
7 to think very carefully about what happens if you  
8 try -- and I quite frankly don't know how you  
9 police this. But assuming that you could, what  
10 would happen if this prohibition became  
11 effective? Where would the demand go? Who would  
12 control that demand? Who would benefit? And  
13 that's some fairly scary questions.

14 MR. CHAFFEE: If I may add one comment  
15 in regards to -- you mentioned -- you brought the  
16 issue up of certain ages and age restrictions.  
17 One thing I think I can confidently speak for  
18 ourselves and for Mr. Green is that we run our  
19 operations at least from a pari-mutuel industry  
20 and what we are proposing is highly regulated and  
21 we go to extreme measures to make sure that they  
22 are of minimum age and 18 and they apply to all  
23 the regulations associated with that.

24 So this is something of great concern to  
25 us that we make sure that they are of legal age

1 to be able to place wagers.

2 CHAIRPERSON GANNON: Representative  
3 Manderino.

4 REPRESENTATIVE MANDERINO: Thank you.  
5 Mr. Chaffee, you just actually started in where  
6 my first question was. If right now with what  
7 you're able to do under Pennsylvania law now -- I  
8 mean, I know if I am at the track and I go up to  
9 place a bet if, you know, just like I'm in a bar,  
10 if I look underage -- it's, what, 18 years  
11 old? -- that somebody can ID me and say, you're  
12 too young to place a bet.

13 What is in place right now in your  
14 industry for the telephone account systems to  
15 assure that you're following along?

16 MR. CHAFFEE: If you were to call right  
17 now and want to open an account in person or via  
18 phone, you would be required to provide your  
19 social security number, your driver's license  
20 number, your address and all the specific  
21 pertinent information.

22 You would immediately be mailed an  
23 application that you have to return within two  
24 weeks or else the account would be closed, and  
25 you would have to sign verifying your age.

1           At the moment that we take that  
2           information, we also put that through a type of  
3           credit reporting agency to verify that you are  
4           who you say you are.

5           And that is in essence a credit  
6           reporting agency that would verify the social  
7           security number and the address which you reside  
8           by, that you would be a minimum of 18 years old.

9           REPRESENTATIVE MANDERINO: And your  
10          caution that whatever we do in the General  
11          Assembly vis-a-vis the Internet, we should be  
12          careful not to impede on technological advantages  
13          that you may want to take advantage of in the  
14          future; for example, right now you talked about  
15          people who are betting via terminals that you've  
16          provided.

17          But I'm sure you foresee sometime in the  
18          future that people may want to bet from their  
19          home computer terminal and that you may be  
20          looking to do that.

21          I guess my question is, Do you feel  
22          comfortable based on what you know and based on  
23          the rules and laws of Pennsylvania that govern  
24          your operation that you could do both, meaning  
25          you could even within a cyberspace kind of



1 atmosphere that you could verify age and any  
2 other requirements that Pennsylvania law puts on  
3 you?

4 MR. CHAFFEE: Speaking for our  
5 operation, I feel very, very confident that the  
6 way we operate our business, again, under the  
7 auspices of the Pennsylvania Harness Racing  
8 Commission. So everything that we do is under  
9 their jurisdiction.

10 So when we open an account, I cited the  
11 You Bet racing Network, for example, that is  
12 nothing separate from our operation other than  
13 the fact that they are a facilitator of  
14 information via the PC.

15 When a person signs up an account with  
16 them, it is seamless that they actually are  
17 opening the account with us. Nothing changes.  
18 They may call up or open an account via the  
19 private network with that particular company, but  
20 that immediately comes through our operation.

21 We see it; it goes through our  
22 regulations and our policies to make sure that  
23 happens. So, in essence, what I'm saying is you  
24 cannot -- you would not be able to open an  
25 account under the proposed system that I

1 described unless you went through our strict  
2 regulations to make sure that we are policing  
3 that. Does that answer your question?

4 REPRESENTATIVE MANDERINO: Yes. Thank  
5 you. Thank you, Mr. Chairman.

6 CHAIRPERSON GANNON: Representative  
7 Reber.

8 REPRESENTATIVE REBER: Thank you,  
9 Chairman Gannon. Just a comment first and then a  
10 question. I think the admonishment, if you will,  
11 that Mr. Green proffered to the Committee  
12 relative to taking a hard look at driving these  
13 kind of things underground by prohibition is  
14 something that the General Assembly really ought  
15 to take a hard look now and into the future and  
16 into the very near future.

17 And the reason I say that, it's  
18 absolutely absurd that we don't look at the  
19 Pennsylvania betting dollar that is going out of  
20 Pennsylvania and going into other jurisdictions  
21 and being used that, frankly, from the statistics  
22 I've seen and the information I've gathered over  
23 the past couple of years probably could do away  
24 totally with the need for local taxes to fund our  
25 school systems.

1           If we regulate these kind of businesses  
2           and we tax -- and I say tax with a capital  
3           "T" -- that which is otherwise going to be spent  
4           by many of the populus of Pennsylvania without  
5           having a gun to their head, we probably could  
6           totally do away with real estate property taxes.

7           Just food for thought because I know  
8           many of these Members are going to be around in  
9           the next session, and I think it's something you  
10          should take a hard look at before we move in any  
11          of those directions, that we look at some of these  
12          various types of prototypes of gaming activities  
13          that have been proffered and see if, in fact, we  
14          could, in essence, balance our books, if you  
15          will, to the point where we could take away the  
16          local tax necessity and local tax effort.

17          And I think that is emblematic and is  
18          key to me at least with the remarks of Mr. Green  
19          relative to prohibition, underground illegal  
20          operations. Something that I think we should  
21          consider.

22          And, frankly, I think we as Members are  
23          remiss if we don't attempt to attack that and, in  
24          essence, do away with what is the biggest plague  
25          on our citizenry as we often have known and heard

1 so often in the recent past.

2 That being said, gentlemen, I think the  
3 big issues that certainly faces you is the  
4 exemption language that was referenced in  
5 Mr. Chaffee's language -- or prepared remarks  
6 relative to the existence of the same in House  
7 Bill 2438.

8 My question is this: In your opinion,  
9 is that language sufficiently specific to provide  
10 the necessary protection that you would like or  
11 is there some need for amplification?

12 And the reason I say that, I think  
13 Mr. Green was talking about that when he talks  
14 about the ancillary dissemination of  
15 information -- not the opportunity to bet, but  
16 the ancillary dissemination of information in the  
17 form of past performances, current knowledge of  
18 horses that are in to go, if you will, for the  
19 next few days that is disseminated now over the  
20 Internet.

21 Obviously, that's not a form of  
22 gambling. That's not asking for any type of quid  
23 pro quo contracting or arrangement on the  
24 gambling side. What it is is a dissemination of  
25 information to aid a person in the analysis of

1 placing a bet in a legal, regulated atmosphere.

2 And as I read the language in 2438,  
3 which I think goes a long way to providing the  
4 comfort that you're looking for, I'm wondering if  
5 there should not also be some language about  
6 technological dissemination of information to  
7 bring about full compliance with the intent of  
8 that Act.

9 And I know that's not necessarily the  
10 way it would be written by the Reference Bureau,  
11 but I'm just wondering if there should be some  
12 expansion of that particular consideration.

13 MR. CHAFFEE: I would probably offer  
14 that, yes, to take a second look at that and to  
15 look very closely; but because I'm not an  
16 attorney and because I will not pretend to be an  
17 attorney, I would look at it and say the language  
18 of excluding the pari-mutuel industry would be  
19 sufficient enough in the simplest form and  
20 sitting here.

21 But given the opportunity, I think we  
22 would look at that and make sure we would weigh  
23 that against what you've described as the  
24 dissemination of information and how that  
25 might --

1           REPRESENTATIVE REBER: I only say that  
2 because I was around here in the days of  
3 yesteryear when the telephone wagering thought  
4 was very specific under the Act and we ran into  
5 problems.

6           I was around when we were legalizing  
7 dart games; and all of a sudden, we had card  
8 rooms in Pennsylvania legal for a short period of  
9 time. So I see where this language is going.

10           Especially Representative Clymer I think  
11 has really attempted to carve out an exception  
12 for a regulated, a policed industry in the  
13 Commonwealth.

14           But I also understand the remarks that  
15 were offered by Mr. Green that may very well be  
16 technically violative because of the use of  
17 cyberspace technology, et cetera, et cetera, and  
18 it is an ancillary part to your lawful business.  
19 So I would just throw that out for a caution that  
20 you may want to look at.

21           Because you people are true business,  
22 licensed operators in the Commonwealth of  
23 longstanding, and I would certainly hope that  
24 your legal minds would take a look at that to  
25 make sure that your concerns are appropriately

1 addressed if this ever comes to a full  
2 consideration.

3 MR. GREEN: That's very helpful.

4 MR. REBER: Thank you, Mr. Chairman.

5 CHAIRPERSON GANNON: Counsel Ryan.

6 MR. RYAN: I would gather from our other  
7 responses, something that Professor Post was able  
8 to specifically address is that there is an  
9 exemption in the federal statute which deals with  
10 wagering where it's authorized within a state as  
11 a legitimate activity so that you are able to  
12 conduct gambling activities with people in other  
13 states because it's perfectly legal and  
14 authorized here in the Commonwealth. That would  
15 be correct?

16 MR. GREEN: Yes. There is legislation  
17 and regulations in the Commonwealth which make it  
18 proper and legal for us to accept telephone  
19 wagering bets; for example, from anywhere within  
20 the United States.

21 There is certain gray areas in respect  
22 to particular states where it may be illegal for  
23 the individual himself to pick up the telephone  
24 and place the bet, but it's not specifically  
25 illegal for us to accept it.

1           MR. GMEREK: Not only by state law but  
2 also by Commission approval, the State Racing  
3 Commission. And third, there is an argument I  
4 guess that is made out there that the telephone  
5 call is separate from the actual bet whereby the  
6 bet occurs within the state.

7           I think there are some legal opinions  
8 that circulate out there trying to differentiate  
9 between the phone call and the bet.

10          MR. RYAN: Bookies would have a problem  
11 with that because over the years they've been  
12 prosecuted for that. The other question I have  
13 to Mr. Chaffee since he is in charge of this  
14 particular area, How many complaints a year do  
15 you get in reference to telephone accounts where  
16 a complaint of a person who opened the account is  
17 not the one who accessed it or made the bet?

18          MR. CHAFFEE: To my knowledge, none.  
19 We've had examples. Two years ago, I was the  
20 recipient of an attempt, I guess I could say, by  
21 a local television station in a sweeps period to  
22 try to, in essence, open an account for a 2 year  
23 old.

24           And I'm pleased to say that in the  
25 subsequent events that happened after that, not



1       only did it show that our system worked, that  
2       somebody has to go and actually break the law to  
3       try to circumvent, that would be the only example  
4       in the last several years where we've had  
5       somebody who would call up and complain.

6                I mean, there are instances where  
7       somebody may want to simply know how they can get  
8       with their spouse and, you know, maybe he's  
9       watching the television too much; but nothing in  
10      terms of complaints that my child or my friend or  
11      my relative has opened account as another  
12      person who --

13               MR. RYAN: No. I didn't mean that. I  
14      mean a person who has a legitimate account. I'm  
15      a parent; I have an account with you; I call in  
16      my bets weekly; I call you and say, Wait a  
17      minute, I didn't make these bets. Where another  
18      person -- you've had complaint about another  
19      person accessing a legitimate account where they  
20      deny the actual bets being placed by them.

21               MR. GREEN: You don't normally get a  
22      denial about somebody placing a bet because  
23      there's a number of things, hoops, they have to  
24      go through before they actually place the bet.

25               They have to tell you their account

1 number. They also have to tell you their code  
2 number because everybody has a code name as well  
3 as an account number and their real name. Once  
4 they've given you that, they then place their  
5 bet.

6 It's more costly for us to take a  
7 telephone bet than say a bet at the race track  
8 because the bet has to be called back. So it  
9 takes generally twice as long. So what you then  
10 do is you call the bet back to the person who's  
11 made the bet. That's recorded. Every single  
12 wager is recorded.

13 So if you get a dispute and somebody  
14 says I had \$20 on that one but my account shows  
15 that you've put me down as having \$40 on it and  
16 they lost, we then review the tapes and we have  
17 transcripts of the tapes.

18 MR. RYAN: Oftentimes on a face-to-face  
19 wager Representative Manderino pointed out you  
20 can look at a person and make a decision about  
21 the age.

22 Even on the telephone probably if you  
23 have -- you have a person who is getting the call  
24 feels might be an inappropriate person on the  
25 other end because they're talking to them or can

1       hear some youthfulness in their voice that there  
2       might be an abuse, isn't that further and further  
3       removed from those checks and balances when you  
4       use a computer which is completely impersonal,  
5       all you need are the operative numbers or words?

6               And how do you make a call back to a  
7       person on a computer where you can access by  
8       another person the validity of that user for that  
9       account?

10              MR. GREEN: I think that if somebody  
11       would have to go through as far as we're  
12       concerned -- and I speak I think for the Ladbroke  
13       as well as for Philadelphia Park.

14              If the actual medium for placing a wager  
15       is actually through the computer as opposed to  
16       the telephone or in person, anybody who's got  
17       that ability first of all has had to open an  
18       account.

19              So you can't just as in the Internet  
20       open an account immediately. You have to go  
21       through a whole series of information and  
22       requests to enable an account to be opened. We  
23       won't open an account until all of those checks  
24       have been developed.

25              So we know the person's name, their

1 address, they have to confirm on a written  
2 application their age, their social security  
3 number, all of those things, which are then  
4 checked and then an account is opened.

5 And then if they bet using their account  
6 number, their code name, that's fine because from  
7 our perspective unless someone has got hold of  
8 that information wrongly like stealing a credit  
9 card, for example, and we can in much the same way  
10 as people police credit card activity, we can  
11 also police Telephone Account Wagering activity.

12 The medium -- once you've established  
13 that, the medium then doesn't become important.  
14 I understand the concern in respect to casino  
15 style gaming on the Internet where people can  
16 open up an account immediately and you don't know  
17 who the account is.

18 And they're the problems that we've  
19 spoke about earlier that this legislation  
20 endeavors to address. But I think it's a  
21 different issue as far as our industry is  
22 concerned because anybody who wants to have a  
23 wager has to open an account and go through these  
24 various processes to be able to do so.

25 MR. CHAFFEE: In our particular case,

1       where we are going in proposing with the You Bet  
2       model, that is something that is -- again, it's  
3       not on the Internet. It's on a private network  
4       similar to -- the best example would be American  
5       Online that you have to have specific software  
6       loaded to be able to enable you to dial into a  
7       separate line all together to get into a private  
8       network.

9               So that in itself is a preventative  
10       safeguard. So anybody that may be of underage  
11       or not the person they say they are, that's an  
12       additional blockade, I guess, that would stop  
13       that as well as then the checks and balances of  
14       if we monitor the systems for any type of strange  
15       behavior or activity that would call attention,  
16       then we'd be able to go back and investigate  
17       something.

18               CHAIRPERSON GANNON: Well then, House  
19       Bill 2271 really got trashed today. I don't take  
20       it personal. The object was to set a forum up  
21       for debating this public policy issue, which from  
22       the testimony I've heard today and the questions  
23       and answer is fairly complex from a policy  
24       standpoint also as well as the technological  
25       standpoint.

1           You mentioned that some TV station tried  
2 to open up an account for a 2 year old. Did they  
3 run the story about how the fact that they were  
4 unsuccessful?

5           MR. CHAFFEE: No, they did not. It was  
6 a much too sensitive issue.

7           MR. GMERK: They did, in fact, ask for  
8 Thomas. It was directed directly at Tom. They  
9 did attempt to do a 60-Minutes style story of  
10 running into the track and attacking Tom with the  
11 fact that they tried to do that, and that's what  
12 started our investigation to see exactly how did  
13 they do it and what were their efforts and  
14 allowed us to do the things we did to not only  
15 correct the problem but to address it in a very  
16 serious legal fashion.

17           CHAIRPERSON GANNON: So that they  
18 weren't successful in opening up the account?

19           MR. CHAFFEE: Well, they were successful  
20 to the extent that they broke several laws.

21           CHAIRPERSON GANNON: Oh, okay. I mean,  
22 they broke the law to --

23           MR. CHAFFEE: Oh, yes. And I'm not  
24 talking about a simple -- you know, in our  
25 applications to sign your name I guess is a

1 misdemeanor. But I'm talking about opening the  
2 account and mailing the information, you know, and  
3 the amount. So that gets to the second level,  
4 more serious issue. So --

5 CHAIRPERSON GANNON: It just wasn't flat  
6 out taking a 2 year old and identifying a 2 year  
7 old and making an application --

8 MR. CHAFFEE: Oh, absolutely not.

9 CHAIRPERSON GANNON: So they had to  
10 really manipulate --

11 MR. CHAFFEE: It was guerrilla warfare to  
12 the extreme.

13 CHAIRPERSON GANNON: Was it CNN that did  
14 this?

15 MR. CHAFFEE: It was several years ago.  
16 It's past, and it sharpened all of us though.

17 CHAIRPERSON GANNON: It seems to me that,  
18 you know, the way this issue is unfolding, on the  
19 one side we have a, you know, unregulated, untaxed,  
20 no-holds-barred Internet enterprises dealing with  
21 gambling and on the other side I think, as  
22 Mr. Green pointed out, is some type of regulation  
23 where we can get taxation and also get  
24 regulation.

25 It seems to me that if we -- maybe it

1       seems to me if we prohibit this entirely it's  
2       still going to happen anyway.  Whether or not we  
3       could make it illegal to the point where we could  
4       shut it down entirely, I don't know whether or  
5       not -- that's just some philosophical issues as  
6       to whether or not we should allow any type of  
7       gambling.

8                   And I think Representative Clymer would  
9       take that position.  And on the other hand is  
10      whether or not -- and I don't want to speak for  
11      Representative Clymer.

12                   But the other side is, you know, whether  
13      we would have some type of regulation and  
14      taxation of Internet-type gambling and whether or  
15      not that's the kind of enterprise that would work  
16      for your particular business, you know, some type  
17      of Internet activity that would be regulated and  
18      taxed in order to expand your business.

19                   Because I think if we did that then we  
20      also have an obligation to protect you from  
21      competition that is not regulated and not taxed.  
22      So, for example, we have a legitimate  
23      Pennsylvania business that's licensed to engage  
24      in certain types of gambling activities and they  
25      wanted to say, look, if we have a law that



1 permits us to go onto the Internet and provide  
2 that service to legitimate customers who have the  
3 resources and that's the type of entertainment  
4 that they want and we say, fine, we're going to  
5 regulate it and we're going to tax it and you say  
6 that's fine, it's okay with us; now we've got  
7 to protect you against people who also  
8 wanted to engage in that and would not be  
9 regulated or taxed.

10 And that's the dilemma that I think we  
11 would be facing. I don't know how we do that  
12 presently, and that's why I wanted to have this  
13 hearing to look at this issue to see if that was  
14 something that was feasible to, you know, what  
15 Representative Clymer talked about; and that is,  
16 prohibit Internet gambling all together.

17 Although his bill doesn't do that, my  
18 legislation probably goes to the extreme. Where  
19 it finally falls, I don't know. And this has  
20 been very enlightening. Are there any other  
21 questions. Representative James?

22 REPRESENTATIVE JAMES: No.

23 CHAIRPERSON GANNON: Any other comments  
24 from the witnesses?

25 (No audible response.)

1                   CHAIRPERSON GANNON: We want to thank  
2 you for being here today and sharing your  
3 testimony with the Committee. And I want to  
4 thank Representative Caltagirone for acting in my  
5 place while I was absent.

6                   And our next witness is Mr. Tony  
7 Milillo, President of the Council on Compulsive  
8 Gambling in Pennsylvania. Welcome, Mr. Milillo.  
9 You may proceed when you're ready.

10                  MR. MILILLO: Thank you, and we'd like  
11 to thank the Chair and the Committee for having  
12 us. And our topic, our focus is different than  
13 the previous presenters' testimonies. Our is for  
14 the social side of the issues.

15                  And we talked about the teenage  
16 gambling. And, again, I heard Mr. Sand say,  
17 well, if somebody wants to lose their money, go  
18 ahead and let them lose their money. But I think  
19 it goes further than that. I really do.

20                  But before I do that, I'd like to share  
21 with you about the racing industry and what  
22 they've been doing in our state as far as social  
23 issues. And I heard Mr. Chaffee say how much  
24 work is being done on teenage gambling.

25                  Both -- in fact, all three tracks and

1 all three organizations that own racing tracks in  
2 Pennsylvania have become very involved with the  
3 Council on Compulsive Gambling of Pennsylvania  
4 for the past three years.

5 And now we're on -- in fact, the first  
6 phone call came from Philadelphia Park to  
7 establish and work on a responsible gaming  
8 program, and Ladbroke is also interested. Let me  
9 tell you what that entails.

10 That entails the possibility of putting  
11 phone numbers at every teller's window of a hot  
12 line number to call if somebody's having a  
13 problem. It entails doing workshops maybe once  
14 or twice a year, educational for their  
15 management on what to do when somebody presents.

16 They're certainly not conditions.  
17 They're certainly not there to treat anybody, but  
18 what can they do if somebody does present or have  
19 a problem with gambling so they will be educated  
20 on that.

21 We will be working together for  
22 developing literature for their customers to be  
23 educated on if they do develop a problem with  
24 gambling. I just wanted to share that much with  
25 you.

1           As far as Internet gambling, there is a  
2 young fellow sitting next to me; and we'll call  
3 him Ted. I brought Ted with me because Ted is  
4 one of those individuals that got caught up in  
5 the activity of Internet gambling, which is  
6 different than going to a race track and having a  
7 meal and enjoying yourself and taking your wife  
8 and having the evening.

9           On the Internet, you're almost melting  
10 away, isolated, by yourself; and you're almost  
11 like you're in control. And you're out of  
12 control. But the control is you start to talk to  
13 the computer, come on, come on, you know.

14           And not only that, but we talked about  
15 and I think Representative Gannon talked about  
16 pushing the send button and that's how we do it.  
17 But also another way of control is how hard they  
18 push the button and how light they push the  
19 button. And it becomes a ritual of what they do.

20           And Ted is willing to answer questions  
21 when I'm finished. But Ted is one of those  
22 individuals, and he lost over \$300,000 on  
23 Internet gambling.

24           And sad to say, at one point he did win  
25 enough to pay back the \$300,000 he lost and paid

1       it back and then lost another 300,000 and is now  
2       facing federal prison due to his activity.

3               And I think these are the things that we  
4       need to look at and need to work on and what can  
5       we do about them. Teenage gambling is certainly  
6       a problem. I put an article for each one of you,  
7       and this is about the 5 year old who went to an  
8       arcade to play a slot machine that sounds, looks,  
9       performs just like a slot machine at any casino.

10              And this may seem very harmful; but in  
11       the long run -- and the mother said there's  
12       nothing wrong with this, you know, let the child  
13       enjoy themselves.

14              And, yes, there are signs on lottery  
15       tickets that say -- on the machine that say 18  
16       years old. And yet a mother can push a child  
17       into a supermarket and as the 5 year old is  
18       wheeled by the machine say, Mommy, Mommy, and the  
19       mother will actually give that child a dollar  
20       bill to put in the machine.

21              I think we're lacking in education. I  
22       think we're lacking in prevention. And some of  
23       the proof of that is if a teenager wants to go to  
24       a guidance counselor in a school and say, My  
25       grades are failing, I'm stealing from my parents,

1 I'm lying, I don't want to live anymore, the  
2 first thing the guidance counselor might say is  
3 do you drink or take drugs.

4 One of the questions that the guidance  
5 counselor will never ask is, Do you gamble? And,  
6 again, I think we're lacking. Every year the  
7 Council on Compulsive Gambling does hold a  
8 gambling behavior conference; and we invite the  
9 legislative body, legal guidance counselors from  
10 schools, psychologists, psychiatrists.

11 And those are the kind of activities,  
12 again, that Ladbroke and Philadelphia Park and  
13 Penn National get involved with. And that's the  
14 kind of things that we need to do. Not only to  
15 put the signs up to the phone numbers, put a hot  
16 line number, but also to educate professionals on  
17 what to do when we have a call.

18 The lottery now puts our number, and  
19 they developed a pamphlet that says, Don't let  
20 gambling be a losing game. And before that  
21 pamphlet was put on, we received maybe 200 calls  
22 a month.

23 I'd like to share with you -- and I  
24 have the phone bill with me -- that we went to  
25 15,000 calls a month. Not all those calls are

1 legitimate problem calls. A lot of them are  
2 hang-up calls and a lot of them are jokes, but  
3 the issue is that 15,000 citizens got the number  
4 and will have it for the future.

5 So I'd like to open up for any questions  
6 you may have on any social issues or maybe ask  
7 Ted any questions that you may have about him.  
8 Thank you.

9 CHAIRPERSON GANNON: Representative  
10 Clymer.

11 REPRESENTATIVE CLYMER: Thank you  
12 very much, Tony, for coming. Maybe Ted could  
13 just give us an overview of what happened, you  
14 know, what happened when he lost this \$300,000.

15 How did he lose it? What incited him to  
16 begin the gambling in the first place? And could  
17 he give us his age and then just give us a very  
18 brief history of your situation?

19 TED: I'm 22 years old. Been betting  
20 since I was 16 at a bookie when I was 16. I've  
21 always enjoyed the computer. And when I turned  
22 20, I came across an advertisement on the  
23 Internet, a company called the World Sports  
24 Exchange.

25 So I opened an account. Typed in my

1 name, address, phone number; sent them \$300.  
2 Began wagering. A couple clicks here and there,  
3 and my bet's in.

4 Eventually, \$300 turned into \$10,000  
5 sending it through Western Union and credit  
6 cards; and, you know, I ran out of my own money at  
7 one point. Worked in a bank and had access to  
8 that, took a little here and there.

9 Won a lot of it back, but eventually  
10 just was too overwhelming and it was just so easy  
11 to place bets over the Internet. No phone calls.  
12 It was just very easy and no one knew what I was  
13 doing. It was all kept inside. And, well, here  
14 I am.

15 REPRESENTATIVE CLYMER: Was this over a  
16 six-month period, a nine-month period?

17 TED: I've been betting over the  
18 Internet for two years, but during the last six  
19 months is when it really got bad.

20 REPRESENTATIVE CLYMER: How much can you  
21 gamble at one time? What were the limits?

22 TED: The limit was 10,000 a game. But  
23 you could actually bet -- 10,000 at one time; but  
24 you can actually bet 50,000 on one game. You  
25 would have five \$10,000 bets on the same game.



1           REPRESENTATIVE CLYMER: What were you  
2 playing at the time?

3           TED: Sports.

4           REPRESENTATIVE CLYMER: Sports like  
5 football and --

6           TED: Baseball, football, basketball,  
7 hockey.

8           REPRESENTATIVE CLYMER: And you were  
9 given odds?

10          TED: Um-hum. You could belt on golf,  
11 tennis, the Emmy Awards -- anything -- all over  
12 the Internet.

13          REPRESENTATIVE CLYMER: So it was a  
14 combination of things that you were betting on  
15 that drove you to lose \$300,000? It wasn't just,  
16 you know, one kind of betting per se?

17          TED: Just sports.

18          REPRESENTATIVE CLYMER: Just sports?

19          TED: Baseball, basketball, hockey, and  
20 football.

21          REPRESENTATIVE CLYMER: Do other friends  
22 do this as well? I'm sure you have some good  
23 friends. Are they involved in this, not maybe to  
24 the extent that you are; but do you know if they  
25 gamble as well?

1           TED: I have friends that gamble but not  
2 over the Internet. I never really gave them the  
3 insight that you could. So --

4           REPRESENTATIVE CLYMER: Okay. So you  
5 now have \$300,000 in debt, and that's a situation  
6 you're going to have to try to deal with.

7           TED: Yes.

8           REPRESENTATIVE CLYMER: Did you have the  
9 money to put up to get into this indebtedness or  
10 did they take credit from you? How were you able  
11 to get \$300,000?

12           TED: I worked in a bank and I borrowed  
13 it from them and I sent cash through Western  
14 Union and bank checks. I sent through Federal  
15 Express, and they would credit my account  
16 instantly. And I just started wagering.

17           REPRESENTATIVE CLYMER: And this was  
18 available to you at any time during the day? You  
19 could bet at night, in the morning? It didn't  
20 really matter, obviously. It is a 24 hour --

21           TED: Normally, I would send -- the  
22 maximum was I'd send \$10,000 at one time and  
23 within ten minutes it would be in my account and  
24 I could start betting on it.

25           REPRESENTATIVE CLYMER: Did you ever

1       hear from the company? Did you know any more  
2       about it than the name they put on the computer?  
3       Did you have a feel as to where it --

4               TED: There are web sites that rate all  
5       the Internet -- or all the offshore bet makers.  
6       And the World Sports Exchange is the one I opened  
7       an account with, and they were rated pretty high.  
8       They were well known. No one had ever had a  
9       problem with them.

10              And I heard some good things about them  
11       from various places. That's how I connected with  
12       them. But there was about 25 that I looked into  
13       before picking World Sports Exchange.

14              REPRESENTATIVE CLYMER: Thank you,  
15       Mr. Chairman.

16              CHAIRPERSON GANNON: Representative  
17       Manderino.

18              REPRESENTATIVE MANDERINO: Thanks. And  
19       thanks for coming. I'm sorry, not Tony. I know  
20       Tony. I forgot your name. Ted?

21              TED: Yeah.

22              REPRESENTATIVE MANDERINO: Thanks, Ted.  
23       Where did you send your money?

24              TED: Through Western Union normally.

25              REPRESENTATIVE MANDERINO: Okay. So you

1 didn't have a physical address? You just had a  
2 wiring account number?

3 TED: Right. It was -- the company name  
4 was Swiss American Silver. It was located in  
5 Antigua.

6 REPRESENTATIVE MANDERINO: Okay. So you  
7 knew when you were sending the money that you  
8 were sending it somewhere offshore?

9 TED: Right. Um-hum.

10 REPRESENTATIVE MANDERINO: And when  
11 you -- I heard you say when you signed up and  
12 registered with them originally and set up an  
13 account they required certain information from  
14 you?

15 TED: Name -- right: Name, address.  
16 Phone number was optional. Email address was  
17 optional. The only information they required was  
18 a name and address.

19 REPRESENTATIVE MANDERINO: Not social  
20 security number to do any credit check or  
21 anything --

22 TED: That was optional. Date of birth  
23 was optional. The only thing I put on was my  
24 name and my address and my Email address. That  
25 was it.

1           REPRESENTATIVE MANDERINO: And there was  
2 no verification process involved from them  
3 verifying that you were who you said you were or  
4 anything?

5           TED: I punched in that information,  
6 went to Western Union, sent them the \$300, came  
7 back home, within 15 minutes --

8           REPRESENTATIVE MANDERINO: And it was  
9 online?

10          TED: -- and I was able to place a bet.

11          REPRESENTATIVE MANDERINO: Knowing what  
12 you know now, should we make -- should we make it  
13 illegal in your opinion? Should we make it more  
14 difficult to do? Should we regulate it so that  
15 we know who the good guys and the bad guys are?

16                 What's your 23-year-old,  
17 having-been-there-done-that opinion?

18          TED: In my opinion, it's just too easy  
19 to get into trouble. I mean, you never have to  
20 make a phone call; you never have to deal with  
21 anybody. It's just -- it's just me. I was the  
22 only one who was involved in it.

23                 I never spoke with anyone from the World  
24 Sports Exchange. You know, I enjoyed it; but it  
25 got me into a lot of trouble, and I would like to

1 see it totally omitted. But that's easy to say.

2 REPRESENTATIVE MANDERINO: It's only his  
3 opinion, Tony. He looked nervous when you said  
4 that. Okay. Thank you. Thank you very much for  
5 coming.

6 CHAIRPERSON GANNON: Counsel.

7 MR. RYAN: What was the largest bet you  
8 ever made with a bookie?

9 TED: With a bookie?

10 MR. RYAN: Yeah, with a bookie? You  
11 know, face-to-face, telephone call or over a bar  
12 or --

13 TED: I'd say about 500.

14 MR. RYAN: Absolute largest?

15 TED: With a bookie, yeah.

16 MR. RYAN: He took credit?

17 TED: Um-hum.

18 MR. RYAN: And he'd only let you bet  
19 so much depending on how you were doing? He had  
20 a limit on what he would take from you?

21 TED: Um, yeah. If I was down a couple  
22 thousand, then he --

23 MR. RYAN: Wouldn't take anymore bets --

24 TED: No. He'd say, you know, I want to  
25 make sure you have this kind of money before I

1 take another bet.

2 MR. RYAN: The offshore thing, you had  
3 to send them cash, no credit card, right?

4 TED: They took credit cards.

5 MR. RYAN: But --

6 TED: The money had to be in the  
7 account before you placed a wager.

8 MR. RYAN: What was the largest bet you  
9 made with them?

10 TED: Um, 20, 25,000.

11 MR. RYAN: 25,000. So with a bookie it  
12 was 500; with them it was 25,000. How long did  
13 you bet with the bookie before you started on  
14 this Internet?

15 TED: Five years.

16 MR. RYAN: And when you got on the  
17 Internet, you went overboard?

18 TED: I started off small like that on  
19 the Internet, but I got greedy and had the access  
20 and I was able to do it and so I did it.

21 MR. RYAN: It was easier on the Internet  
22 to bet and spend that amount of money than it was  
23 dealing with a bookie?

24 TED: Oh, much easier, much easier. No  
25 bookie that I know would take a bet for that kind

1 of money. So --

2 MR. RYAN: Made it just easier and  
3 easier for you to do?

4 TED: Yeah. You never had to deal with  
5 a bookie.

6 MR. RYAN: No personal contact, just  
7 across the wire?

8 TED: Every bookie I ever dealt with,  
9 you know, was a hassle: Busy signals, you know,  
10 you have to go meet them at the end of week.  
11 Here, you want money, you punch in the amount  
12 you're withdrawing, and they send you a check the  
13 next day. Because I did win a lot of times. I  
14 did win. They'd just mail you a check the next  
15 day.

16 MR. RYAN: You paid tax on the money?

17 TED: Um-hum.

18 MR. RYAN: When you were betting on the  
19 bookie, did you ever take a dime from anybody?

20 TED: No, not at all.

21 MR. RYAN: Okay. No further questions.

22 CHAIRPERSON GANNON: You say you got  
23 checks back. Where did the checks come from?

24 TED: They came from -- the bank was  
25 Swiss American Bank and it was in -- it was Chase



1 Manhattan in New York. That's where the account  
2 was drawn.

3 CHAIRPERSON GANNON: But the money that  
4 you sent went to Antigua?

5 TED: Right.

6 CHAIRPERSON GANNON: The money you got  
7 came from New York or through Chase Manhattan in  
8 New York?

9 TED: Right. And I questioned them  
10 about that the first time they sent me a check  
11 and they never really gave me a legitimate  
12 response. But I didn't care. I was getting  
13 money. So --

14 CHAIRPERSON GANNON: How did you learn  
15 what the odds would be; in other words, how did  
16 you know what the payout or payoff if you won a  
17 particular bet? What would be the amount of that  
18 payoff?

19 TED: Betting on sports was 50/50. I  
20 mean, you punch in the amount you want to wager.  
21 You bet 500 to one, 500 -- 5,000 to one and  
22 5,000.

23 CHAIRPERSON GANNON: Was it always an  
24 even money bet; in other words, if you bet 500  
25 you win 500 no matter --

1           TED: No. It was 11 to 10 odds. You  
2 had to bet 550 to win 500; 5500 to win 5,000.  
3 That was in basketball. There were money lines  
4 in baseball. You have to wager more on the  
5 favorite. You'd have to wager --

6           CHAIRPERSON GANNON: In other words,  
7 they didn't follow any particular line that would  
8 come out; for example --

9           TED: Um-hum.

10          CHAIRPERSON GANNON: -- they set odds  
11 based on a team's performance and their  
12 expectation. That changes --

13          TED: Right.

14          CHAIRPERSON GANNON: Did they do the  
15 same thing or were they different?

16          TED: They used the Vegas odds --

17          CHAIRPERSON GANNON: So in other words,  
18 if you had somebody in Vegas, you could call  
19 Vegas and get whatever the line was on a  
20 particular team or teams or whatever and you knew  
21 if you needed that that's what they would pay?

22          TED: Well, no. I mean, it could be  
23 different. If I bet a basketball game in Vegas,  
24 I might get 7 points but offshore I only get 6  
25 and a half. They adjust their odds.

1                   CHAIRPERSON GANNON: So they would  
2                   adjust -- their odds could be adjusted and they  
3                   weren't necessarily following somebody  
4                   else's -- a line that was generally accepted?

5                   TED: Right. Right. They just,  
6                   depending on the amount of bets they get on a  
7                   single game, they adjust their odds. But  
8                   everything's right there on the screen so you  
9                   know what you're getting into.

10                  CHAIRPERSON GANNON: But that could  
11                  change. From the time you make your bet, say  
12                  it's 6 and a half points but at game time it  
13                  could be different?

14                  TED: Right.

15                  CHAIRPERSON GANNON: So you're still at  
16                  6 and a half --

17                  TED: You're locked in at the 6 and a  
18                  half.

19                  CHAIRPERSON GANNON: You're locked into  
20                  6 and half. So that could change as you get  
21                  closer to the game?

22                  TED: Right.

23                  CHAIRPERSON GANNON: Now, you say you  
24                  lost \$300,000. How much would you estimate you  
25                  actually bet?

1           TED: Hum, probably about a million.

2           CHAIRPERSON GANNON: And you did take  
3 some of that back; in other words, you actually  
4 took back some of that money? Do you know how  
5 much you actually took back?

6           TED: Um, probably -- I received three  
7 checks for 50,000 each at one point in over a  
8 two-month period. That's 150,000 right there  
9 that I won. And I received checks for 10,000,  
10 20,000, probably a quarter of a million I won  
11 back.

12           CHAIRPERSON GANNON: That you actually  
13 took back?

14           TED: Right.

15           CHAIRPERSON GANNON: Not what you won?  
16 In other words, you left some of your winnings in  
17 that account and some of it you took back? I'm  
18 just wondering how much you took back that you  
19 physically got in your pocket.

20           TED: Oh, oh. I never got a cent in my  
21 pocket. Everything that I won back I paid back  
22 to where I took it from.

23           CHAIRPERSON GANNON: I understand that.  
24 I didn't mean into your pocket. I mean, you  
25 actually got money from -- you say it's

1       about a hundred and fifty thousand dollars that  
2       you actually got back from --

3               TED: Well, actually, I got checks back  
4       from them that totalled about 250,000.

5               CHAIRPERSON GANNON: What was the most  
6       that you had on account with them at any given  
7       time?

8               TED: 185,000.

9               CHAIRPERSON GANNON: That would have  
10       been -- in other words, that was -- you had a  
11       hundred and eighty-five thousand in your account  
12       that was available for betting and that was the  
13       lowest you ever had available --

14              TED: Um-hum.

15              CHAIRPERSON GANNON: -- for betting?  
16       Was there any limit on how much you  
17       could have available for betting? Did they  
18       tell you the maximum you could have in your  
19       account is 200,000 or whatever?

20              TED: No. No. I could have bet that  
21       hundred and eighty-five thousand dollars on one  
22       game.

23              CHAIRPERSON GANNON: Would they take  
24       that kind of bet?

25              TED: They keep -- every time you placed

1 a bet they'd -- the maximum was 2500; so you'd  
2 have to bet, you know, whatever that is.

3 CHAIRPERSON GANNON: Times --

4 TED: 2500.

5 CHAIRPERSON GANNON: What kind of  
6 assurances -- suppose you really felt pretty good  
7 about a particular team and you went out and did  
8 whatever you had to do to get the full hundred  
9 and fifty or eighty-five thousand, what guarantee  
10 would you have -- you said, This is it. Once I  
11 do this one, I'm over.

12 What guarantee did you have if you won  
13 you would get -- you could call them up or write  
14 them a letter or send them an Email and say send  
15 me my money? I want every penny of it. I'm out  
16 of this. What guarantee did you have of getting  
17 paid?

18 TED: There's no guarantee. It's just  
19 that you trust that they well.

20 CHAIRPERSON GANNON: Would you have any  
21 recourse that you knew of to get paid if they  
22 said, you know, we'll send you 50,000 but that's  
23 the most and then we'll send you another 50,000  
24 some other time; you say, no, I want my money  
25 now? Is there any recourse that you knew of to

1 get your full payment?

2 TED: No. None.

3 CHAIRPERSON GANNON: So you really were  
4 just betting on wishful thinking that if you  
5 requested that money that they would pay you?

6 TED: I never had problems with them  
7 before and I heard good things about them, but  
8 I've heard many stories about people who didn't  
9 get paid from other offshore.

10 CHAIRPERSON GANNON: Not by this one?

11 TED: Not by this one.

12 CHAIRPERSON GANNON: That wanted to take  
13 their money out and they didn't get it or they  
14 couldn't get it?

15 TED: Right. I heard -- the one in Blue  
16 Bell, I heard a lot about that a while back.  
17 Sports International I think the outfit was  
18 called.

19 CHAIRPERSON GANNON: They didn't pay?

20 TED: Right. I heard -- that's actually  
21 when I was looking into opening an account. And  
22 I heard of Sports International located in Blue  
23 Bell -- Interactive Gaming I think it was  
24 called -- and they weren't paying their  
25 customers. And they were actually one I was

1 looking into opening.

2 CHAIRPERSON GANNON: Thank you.

3 Representative Caltagirone.

4 REPRESENTATIVE CALTAGIRONE: I just have  
5 one question. Do you know or did you know of  
6 other young people that were gambling or gambling  
7 excessively on the Internet since we're dealing  
8 with this legislation?

9 TED: I didn't know of any, no.

10 REPRESENTATIVE CALTAGIRONE: No other  
11 friends that had ever dealt with you and said  
12 that there were some that were gambling? Were  
13 they gambling --

14 TED: None of my friends ever gambled  
15 on the Internet.

16 REPRESENTATIVE CALTAGIRONE: What  
17 enticed to you do it, if I may ask?

18 TED: Just I was on the Internet for  
19 something at one point and I came across an  
20 advertisement that said place your bets online  
21 and I clicked on that and it took me to a web  
22 site that you can actually bet on sports on the  
23 Internet.

24 And through that advertisement, I got  
25 connected with the World Sports Exchange and that



1 was it. I didn't go on the Internet looking for  
2 it. It just came to me in a sense.

3 REPRESENTATIVE CALTAGIRONE: Thank you.  
4 Thank you, Mr. Chairman.

5 CHAIRPERSON GANNON: I just have one  
6 other question. During the time that you  
7 were -- you had a relationship with this company,  
8 did you have the name of an individual or a  
9 contact person or a help desk; in other words, if  
10 you had a problem that required some direct  
11 contact other than through Email and how did that  
12 work?

13 TED: There was a 1-800 number that  
14 you could call and place wagers. I had an Email  
15 address. I Emailed them several times just for,  
16 you know, just to ask them questions here and  
17 there. But they had a 1-800 number, which always  
18 changed.

19 They were using -- in fact, one of their  
20 owners was indicted for using the U.S. phone  
21 lines illegally; and that's why they kept having  
22 the phone numbers changed. Every week there was  
23 a different phone number. But I was able to call  
24 them whenever I needed to.

25 CHAIRPERSON GANNON: You said you could

1 place wagers on that 1-800 number also?

2 TED: Um-um. I never did that though.

3 CHAIRPERSON GANNON: You never did, but  
4 you could? They told you could --

5 TED: Um-hum.

6 CHAIRPERSON GANNON: Representative  
7 Clymer.

8 REPRESENTATIVE CLYMER: Thank you,  
9 Mr. Chairman. Tony, at the outset you mentioned  
10 the large number of phone calls that the  
11 organization has been receiving when you put that  
12 phone number on the back of lottery cards.

13 My question is this very quickly: What  
14 are the graphics you can share with us? Who is  
15 gambling out there or who is calling the hot line  
16 saying I need help? Are you finding that there's  
17 more young people or more middle-aged people or  
18 more women, more men, more elderly?

19 I know it's hard maybe to put those into  
20 categories, but can you give us a sense as to  
21 what is happening with the calls that you're  
22 receiving?

23 MR. MILILLO: Yeah. In today's climate,  
24 it's across the board. They're -- and it's  
25 usually not the young people that call because

1 they normally don't get in real trouble until  
2 they get into high school or into college.

3 So the really young ones I don't get the  
4 calls for, but I do get calls mostly from the  
5 families of the compulsive gamblers. The families  
6 are the first to recognize the problem. And they  
7 ask me, What would I do to get them to stop? And  
8 it's almost impossible.

9 I'd like to share this with you though:  
10 Ted, what helped him stop the activity and get  
11 help was he walked into a store that had a  
12 lottery terminal and seen that pamphlet and seen  
13 the 800 number. So it helps in many, many ways.

14 When you're betting with a bookie, you  
15 sort of ride with your friends, you sort of  
16 become part of. But on a computer, his whole  
17 personality changed, to the best of my  
18 knowledge, to where he wanted to stay away from  
19 people.

20 And that's why he had no more friends to  
21 talk to about this. And so he more or less  
22 isolated him and the machine. Thank you.

23 CHAIRPERSON GANNON: I want to thank  
24 Mr. Milillo and Ted for coming here today and  
25 sharing your testimony with the Members of the

1           Committee. And with that, the public hearings on  
2           House Bill 2271 and 2438 are concluded. Thank  
3           you.

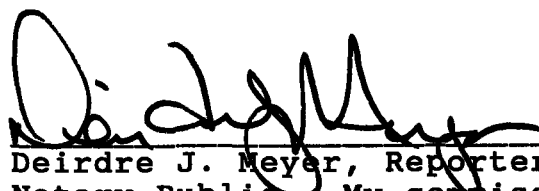
4                           (At or about 4:44 p.m., the hearing was  
5           adjourned.)

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## C E R T I F I C A T E

I, Deirdre J. Meyer, Reporter, Notary Public, duly commissioned and qualified in and for the County of Lancaster, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

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