



SWEEPSTAKES CAFÉS LOSE GAMBLE AGAINST TEXAS LAWS

by Texas Attorney General Greg Abbott

HISTORICALLY, GAMBLING IN TEXAS HAS been outlawed. As early as 1861, the Texas Constitution prohibited most types of gambling. Since 1980, the constitution has been amended to allow bingo, charitable raffles and a state lottery under specified circumstances. Pari-mutuel racing of horses and greyhounds has also been legalized. But the Texas Penal Code prohibits most gambling, including betting money or other things of value on games played with cards, dice, balls, or other gambling devices.

In recent years, however, some individuals have attempted to use technology to circumvent the State's anti-gambling laws. In each of these cases, the gamblers' bets backfired when they were prosecuted for illegal gambling offenses.

In August, for example, two Internet "sweepstakes" promoters lost their bids to overturn criminal convictions when a federal appellate court rejected their appeals. The defendants operated Internet cafés where gamblers played simulated, slot-machine style "sweepstakes" games. In an attempt to bypass the State's gambling prohibition, the defendants claimed they were merely selling Internet access at the cafés. But in reality, their Internet cafés resembled miniature casinos where gamblers won or lost online games of chance while consuming free food and drinks.

The Texas Attorney General's Office is fortunate to have one of the State's most experienced prosecutors on our team – Assistant Attorney General David Glickler. A veteran prosecutor with a deep understanding of the State's anti-gambling laws, AAG Glickler has coordinated multiple statewide crackdowns on illegal gambling establishments. With Internet cafés proliferating across Texas, AAG Glickler works closely with local law enforcement authorities who contact the Texas Attorney General's Office seeking assistance prosecuting Internet cafés and similar establishments that are violating state anti-gambling laws.

Although the State's gaming laws may seem complicated, the prohibition basically boils down to this: It is illegal to charge someone for an opportunity to win a prize that is decided on the basis of sheer chance.

In the Internet "sweepstakes" case decided in August, the defendants claimed that their customers paid for Internet time – not a chance to win a prize. But the federal appeals court saw through the defendants' scheme and rejected their argument, ruling that "there is legally sufficient evidence... that the sale of Internet time at the defendants' cafés was an attempt to legitimize an illegal lottery." The court found that the defendants' customers did not use or value the Internet time they

purchased – but were instead simply paying to participate in the online, slot-machine style "sweepstakes" games. In fact, trial testimony revealed that the defendants' customers only played the "sweepstakes" games and never actually surfed the Web.

As technology continues to advance, it is particularly important that state and local authorities work together to prevent the proliferation of illegal gambling. Thus far, the Texas Legislature has not authorized the Texas Attorney General's Office to independently prosecute gambling and most other criminal offenses.

Unlike many other states, in Texas, the attorney general's office can only prosecute crimes like gambling if a local district attorney seeks our assistance or grants our prosecutors authority to pursue a case that is in the DA's jurisdiction. As a result, we work closely with local prosecutors and help coordinate multi-county cases against unlawful gambling operations. In recent years, these state-local efforts have yielded significant results.

In August, for example, AAG Glickler coordinated a multi-jurisdictional operation with the DAs of Tarrant and Anderson counties as well as the FBI and Secret Service. State, local and federal law enforcement officers arrested several senior executives with HEST Technologies Inc., a Haltom City-

based software company that markets online "sweepstakes" games. During the joint operation, search warrants were executed at HEST's headquarters and at the residences of five executives. The defendants face felony gambling, money laundering and organized criminal activity charges.

The HEST operation follows on the heels of a statewide investigation and prosecution of Aces Wired Inc. Four of its executives pleaded guilty to gambling related charges. Prior to the investigation, Aces Wired operated game rooms across Texas that offered slot-machine style gambling.

Multistate cooperation is another important factor. With new technology, illegal games can be run through the Internet. For example, someone gambling on a device in East Texas may be using electronic information transmitted from another state. As a result, AAG Glickler is coordinating with other states' law enforcement officials and prosecutors who are facing similar gambling problems, such as Florida, California and Ohio.

By working together, state and local authorities in Texas can help keep their communities safe and prosperous by ensuring compliance with the State's anti-gambling laws.

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