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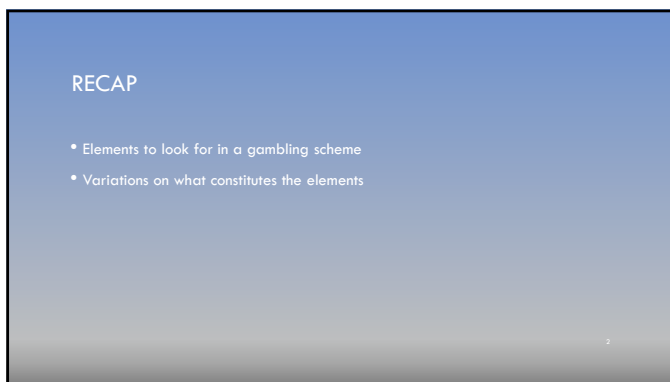
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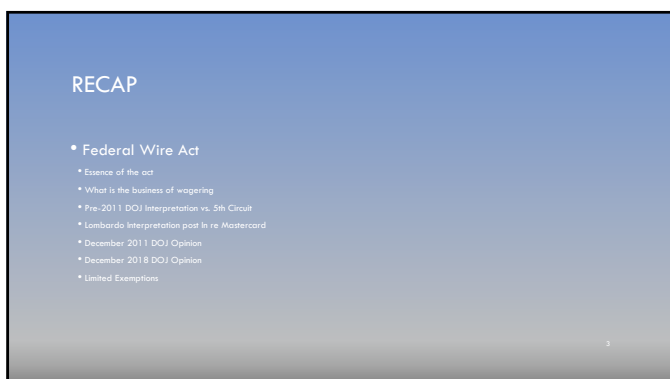
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## HISTORY

- By 1970, organized crime was still a significant issue for law enforcement.
  - Calls were made by law enforcement for stronger efforts by the federal government to assist states in enforcing their laws with regard to illegal gambling.
  - The following FBI training movie from 1971 highlights the issue of the time...

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## HISTORY

- In response, Congress enacted the Organized Crime Act of 1970 that included the Illegal Gambling Business Act.

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## ILLEGAL GAMBLING BUSINESS ACT

- 18 U.S.C. §1955 the Statute
- (a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined under this title or imprisoned not more than five years, or both

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## ILLEGAL GAMBLING BUSINESS ACT

- 18 U.S.C. §1955 the Statute
- (b) As used in this section—
  - (1) "illegal gambling business" means a gambling business which—
    - (i) is a violation of the law of a State or political subdivision in which it is conducted;
    - (ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and
    - (iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of \$2,000 in any single day.

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## ILLEGAL GAMBLING BUSINESS ACT

- 18 U.S.C. §1955 the Statute
- (2) "gambling" includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.
- (3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

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## ILLEGAL GAMBLING BUSINESS ACT

- 18 U.S.C. §1955 the Statute
- What do you think the phrase "conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business" means?

• Does it cover bettors?

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## ILLEGAL GAMBLING BUSINESS ACT

- The Follin Opinion

- Facts

- FBI Officer observes 4 men operating an illegal casino in Mississippi
    - Also present was Follin.
    - ...Follin did not operate a gambling table, and she was not a paid employee. She was observed, however, serving drinks, cooking steaks, wiping off kitchen counters, and examining the dice. On several occasions she wagered bets.
    - Follin convicted under Section 1955.
    - Follin appeals.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Follin Opinion

- What is Follin's Argument?

- The appellants maintain that Follin's activities were no different from those of the other bettors. All patrons, it is argued, would get each other drinks, cook steaks, and examine the dice should they fall nearest that person; as a mere bettor Follin cannot be used to trigger the jurisdictional requirements of the statute since she did not conduct or direct the illegal gambling operation.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Follin Opinion

- In light of Follin's arguments, what did the court identify as the central issue?

- The central issue involved in this appeal is whether the jury could have found, under the facts presented, that Follin was not a mere bettor, but in fact was helpful to gambling operations.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Follin Opinion
  - What was the government's response?
    - The government's response is that Follin, unlike other bettors, was present at the casino from its inauguration until its operations were terminated. The Government further contends that any individual, regardless of the standard practice in the game room at the time, who consistently performs duties so as to facilitate the gambling operation is subject to prosecution under § 1955.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Follin Opinion
  - Does the court identify a bright line rule for what is necessary or helpful?
    - No bright line can be drawn as to what is "necessary or helpful" in all instances; such a determination depends on the facts in a given situation and the evidence presented to the jury.
  - Practice Tip - Whether certain behavior is sufficiently "necessary or helpful" to be "conducting" an illegal gambling business is a question of fact and not law; therefore, ...

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## ILLEGAL GAMBLING BUSINESS ACT

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## FWA & IGBA

- Both require being in the business of betting or wagering.
- How do they differ in determining whether one is in the business of betting or wagering?

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## FWA & IGBA

- BARBORIAN  
...in enacting § 1955, Congress did not intend to make all gambling businesses subject to federal prosecution; rather the statute was "intended to reach only those persons who prey systematically upon our citizens and whose syndicated operations are so continuous and substantial as to be of national concern."

In regard to § 1084(a), however, there is nothing to indicate that Congress intended only to punish large-scale gambling businesses. The basis of federal jurisdiction underlying § 1084(a) is the use of interstate communications facilities, which is wholly distinct from the connection between large-scale gambling businesses and the flow of commerce, which provides the jurisdictional basis for § 1955. Thus, the necessary showing of interdependence between individuals involved in an illegal gambling business under § 1955 is not required under § 1084(a). Moreover, § 1084(a) is not limited to persons who are exclusively engaged in the business of betting or wagering and the statute does not distinguish between persons engaged in such business on their own behalf and those engaged in the business on behalf of others.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
- Often cited by online gaming proponents as support for the argument that the IGBA cannot apply to off-shore wagering.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
  - The Facts

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
  - The Facts
    - Jones was the head of Spectrum or World Sportsbook that operated out of the Dominican Republic, Jamaica, and Dallas.
    - Spectrum and World Sportsbook were licensed in the Dominican Republic and Jamaica to take sports wagers via international phone calls.
    - Bettors could call in bets via an 800 number set up by Spectrum and World Sportsbook.
    - Calls to the Dallas offices only provided information about general payoff information and information on how to set up an account.
    - To set up an account players had to wire in or send deposit by overnight courier.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
  - The Facts
    - Truesdale and Hamilton were tasked with picking up the wired or couriered funds and depositing them into a bank account.
    - Payoffs to winners were from a bank account in Dallas.
    - Truesdale and Hamilton also promoted the off shore books.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion

- The Conviction
  - The jury found Truesdale, Hamilton, and Miner not guilty of conspiracy, but guilty on several counts of money laundering and guilty of illegal gambling. Jones was convicted of conspiracy, illegal gambling, and money laundering, but found not guilty on most of the "traveling in aid of racketeering" counts.
  - The IGBA conviction was based on a violation of Texas statutes prohibiting Bookmaking, which is defined as:
    - "(A) to receive and record or to forward more than five bets or offers to bet in a period of 24 hours;
    - (B) to receive and record or to forward bets or offers to bet totalling more than \$1,000 in a period of 24 hours; or
    - (C) a scheme by three or more persons to receive, record, or forward a bet or an offer to bet."

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion

- The Argument on Appeal
  - Appellants claim that there was insufficient evidence that they engaged in illegal bookmaking in Texas, because the bookmaking portion of their business occurred in Jamaica and the Dominican Republic.
  - They argue that no bets were received, recorded, or forwarded in Texas.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion

- The Government's Counter Argument on Appeal
  - The government, however, argues that the jury could have inferred that the operation received, recorded, or forwarded bets, and thereby conducted illegal bookmaking, in Texas, and, in the alternative, the government argues that the operation conducted financial transactions related to the gambling operation with bettors in Texas, and, thus, a part of the betting operation's business was transacted in Texas, in violation of Texas law.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
  - The Government's Counter Argument on Appeal
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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
  - The Court's View
    - The Texas bookmaking statute prohibits recording, receiving, and forwarding bets; where and how the money is paid out is irrelevant under section 47.03(a)(2). 5 Becoming a custodian of money that is used to place bets offshore would be a violation of section 47.03(a)(3). However, the indictment did not allege that the appellants violated section 47.03(a)(3) and the jury was not instructed on any such violation. Nor was the case tried on that theory. In short, the government's case and the jury's verdict were focused exclusively on illegal bookmaking, and we cannot affirm the case on a different theory.

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## ILLEGAL GAMBLING BUSINESS ACT

- The Truesdale Opinion
  - The Aftermath
    - Many courts have distinguished Truesdale when addressing online gaming.
    - Ultimately, the Truesdale opinion means that the underlying state offense charged must be consistent with the facts of the case for a conviction. Note, the court went out of its way to state that the defendant's probably violated other Texas gambling prohibitions, but not the prohibition with which they were charged.

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## ILLEGAL GAMBLING BUSINESS ACT

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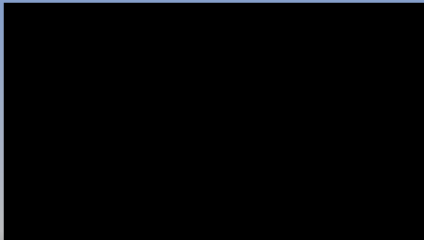
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## ILLEGAL GAMBLING BUSINESS ACT



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## ILLEGAL GAMBLING BUSINESS ACT

- The Poker Indictments

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## ILLEGAL GAMBLING BUSINESS ACT



<https://www.youtube.com/watch?v=hDICECK5MXg>

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

ISRAEL SCHINDLER,  
RAYMOND RYAN,  
ROBERT TUM,  
BRADLEY FRANKLIN,  
DAN KILSH,  
BRADLEY FRANKLIN,  
IRA KORNIC,  
DAN KILSH,  
JOHN CANNON,

Defendants.

CRIMINAL JUSTICE

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receive billions of dollars from United States residents who gambled through the Poker Companies. The principals of the Poker Companies, including defendants ISRAEL SCHINDLER and DAN KILSH of PokerStars, ROBERT TUM and BRADLEY FRANKLIN of Absolute Poker, and RAYMOND RYAN and BRADLEY FRANKLIN of Full Tilt Poker, deceived or directed others to deceive United States banks and financial institutions into processing billions of dollars in payments for the Poker Companies, by, among other things, arranging for the money received from United States gamblers to be deposited as payments to hundreds of non-existent online merchants and other non-gambling businesses.

2. To accomplish this deceit, ISRAEL SCHINDLER, RAYMOND RYAN, ROBERT TUM, BRADLEY FRANKLIN and DAN KILSH, the defendants, relied on highly compensated third party payment processors (the "Poker Processors") who lied to United States banks about the nature of the financial transactions they were processing and covered up those lies through the creation of phony corporations and websites to disguise payments to the Poker Companies. These Poker Processors included, among others, RYAN LAMB, BRADLEY FRANKLIN, IRA KORNIC, and DAN KILSH, the defendants, who, at various times relevant to this indictment, processed and/or deposited payments to and/or for the Poker Companies.

3. Working together, the Poker Companies and Poker Processors deceived United States banks and financial

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institutions - including funds issued by the Federal Deposit Insurance Corporation - into processing billions of dollars in gambling transactions for the Poker Companies. Approximately one-third or more of the funds deposited by gamblers went directly to the Poker Companies as revenue through the "rake" the Poker Companies charged players in almost every poker hand played online.

**The Defendants and Their Associated Entities**

4. At all times relevant to this Indictment, ISAK SCHNEIDER, the defendant, was a founder, owner, and principal decision-maker for PokerStars, an internet poker company founded in or about 2001 with headquarters in the Isle of Man. Through its website, pokerstars.com, PokerStars provided real-money gambling on internet poker games to United States customers. At various times relevant to this Indictment, PokerStars did business through several privately held corporations and other entities, including but not limited to Oldford Group Ltd., National Entertainment Enterprises Ltd., Psy Software Ltd., Doubletree Ltd. and Spayne International Ltd. (collectively, "PokerStars").

5. At all times relevant to this Indictment, MARCINO STAN, the defendant, was a founder, owner, and principal decision-maker for Full Tilt Poker, an internet poker company founded in or about 2004 with headquarters in Ireland. Through

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40. From in or about October 2006 up to and including in or about March 2011, in the Southern District of New York and elsewhere, JERRY TOW, ROBERT ROSENTHAL, RYAN LAM, MARCINO STAN, ISA SCHNEIDER and CHAD SLICK, the defendants, persons engaged in the business of betting and wagering and persons aiding and abetting persons in the business of betting and wagering, did knowingly accept, in connection with the participation of another person in unlawful internet gambling, to wit, gambling through Absolute Poker in violation of New York Penal Law Sections 225.40 and 225.45 and the laws of other states where Absolute Poker operated, credit, and the proceeds of credit, extended to and on behalf of such other person, including credit extended through the use of a credit card, and an electronic fund transfer and the proceeds of an electronic fund transfer from and on behalf of such other person, and a check, draft and similar instrument which was drawn by and on behalf of such other person and was drawn on and payable at and through any financial institution.

(Title 18, United States Code, Sections 1961 and 1966; Title 18 United States Code, Section 225.)

**CRIME FIVE**

Operation of an Illegal Gambling Business: PokerStars

The Grand Jury further charges:

41. Paragraphs 1 through 31 of this Indictment are repeated and enlarged as if fully set forth herein.

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42. From at least in or about 2001 up to and including in or about March 2011, in the Southern District of New York and elsewhere, ISAK SCHNEIDERMAN, MELISSA HUPWICK, PAUL TAYL, RYAN LAM, BRADLEY FRANKLIN, ISA SCHNEIDER, CHAD SLICK, and JOHN CHAPPEL, the defendants, unlawfully, willfully, and knowingly did conduct, finance, manage, supervise, direct, and own all and part of an illegal gambling business, namely a business that engaged in and facilitated online poker, in violation of New York Penal Law Sections 225.40 and 225.45 and the law of other states in which the business operated, and which business involved five and more persons who conducted, financed, managed, supervised, directed, and owned all and part of that business, and which business had been and had remained in substantially continuous operation for a period in excess of thirty days and had gross revenues of \$2,500 in a single day, to wit, the defendants operated and aided and abetted the operation of PokerStars.

(Title 18, United States Code, Sections 1955 and 2.)

**CRIME SIX**

Operation of an Illegal Gambling Business: Full Tilt (Poker)

The Grand Jury further charges:

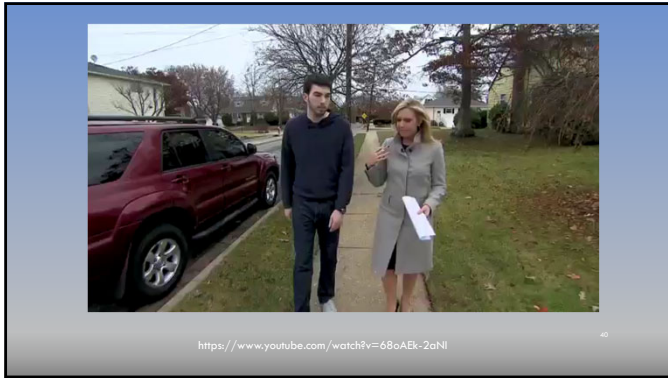
43. Paragraphs 1 through 31 of this Indictment are repeated and enlarged as if fully set forth herein.

44. From in or about 2004 up to and including in or about March 2011, in the Southern District of New York and

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