

Affidavit in Support of Seizure Warrants

**I. Purpose of the Affidavit**

This Affidavit is submitted in support of a seizure warrant for the following accounts:

The contents of Fifth Third Bank account 7432031131 in the name of Atrium Financial Group and located in Fort Lauderdale, Florida.

The contents of Wilmington Savings Fund Society account 209230358 in the name of Atrium Financial Group and located in Wilmington, Delaware.

Your affiant submits that there is probable cause to believe that this property constitutes the proceeds of an illegal gambling business and is forfeitable pursuant to 18 U.S.C. sections 981(a)(1)(C) and 1955(d), and also that it was involved in money laundering transactions made in violation of 18 U.S.C. section 1956(a)(2)(A) and is subject to seizure and forfeiture pursuant to 18 U.S.C. section 981(a)(1)(A).

**II. Affiant**

Your affiant, Special Agent Augusta B. Ferenc, has been employed by the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) for three years, and I am currently assigned to the ICE Office of the Special Agent in Charge, New Orleans, Louisiana, Financial Investigations group. I have attended a number of advanced-training classes relating to the investigation of criminal activity, including suspect/witness interviewing and money laundering.

I have participated in investigations of state and federal violations, including gambling, money laundering, and operating an unlicensed money transmitting business, and have examined and analyzed financial records showing the flow of money from both

legal and illegal businesses.

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### III. Applicable Statutes

#### 18 U.S.C. section 1955

#### Conducting Illegal Gambling Business.

(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.

(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 \$2000 in any single day.

(2) "gambling" includes but is not limited to poolselling, bookmaking.....

(3) "State" means any State of the United States.

\* \* \*

(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States.

#### Maryland Criminal Code section 12-102

#### Betting, wagering, gambling and related activities.

(a) Prohibited. - A person may not:

(1) bet, wager or gamble;

(2) make or sell a book or pool on the result of a race, contest, or contingency;

\* \* \*

(4) receive, become the depository of, record, register, or forward, or propose, agree, or pretend to forward, money or any other thing or consideration of value, to be bet wagered or gambled on the result of a race, contest, or contingency.

Title 31 U.S.C. section 5363

Unlawful Internet Gambling Enforcement Act

No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful internet gambling -

\* \* \*

(2) an electronic fund transfer, or funds transmitted by or through a money transmitting business, or the proceeds of an electronic funds transfer or money transmitting service, from or on behalf of such other person;....

18 U.S.C. section 1084

Transmission of wagering information

(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets, or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined or imprisoned not more than two years, or both.

Title 18 U.S.C. section 1956(a)(2)(A)

Money laundering

(2) Whoever ... transmits ... or attempts to transmit ... funds ... to a place in the United States from or through a place outside the United States -

(A) with the intent to promote the carrying on of specified unlawful activity [shall have committed an offense].

Title 18 U.S.C. section 981

Asset forfeiture

(a)(1) The following property is subject to forfeiture to the United States:

(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 1956 ... of this title, or any property traceable to such property.

\* \* \*

- (C) Any property, real or personal, which constitutes or is derived from proceeds traceable to ... any offense constituting "specified unlawful activity" (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

#### IV. Probable Cause

##### Introduction

The information set forth below is based upon your affiant's review of records and upon information provided by other sworn law enforcement officers participating in this investigation. I have not included each and every fact obtained pursuant to this investigation, but have set forth those facts that I believe are essential to establish the necessary foundation for the issuance of the seizure warrants for the specified accounts.

##### Background

I conducted an Internet search and found the following: (1) that there are dozens of Internet gambling sites, such as GoldenCasino.com, that allow a gambler to play various games of chance and to wager on the outcome of various sporting events; (2) that these sites allow gamblers to use various forms of payment to wager and then to receive payouts for winning; (3) that these companies are all physically located outside of the United States while the majority of the customers are found in the United States. Because customers are in the United States, these businesses rely upon the U.S. banking system to facilitate the movement of funds to and from their customers, the gamblers.

Recent developments, including account seizures, and the passage of the Unlawful Internet Gambling Enforcement Act of 2006, have made it increasingly difficult for Internet gaming operators to move money to and from their customers.

Specifically, 31 U.S.C. section 5363 prohibited them from accepting nearly all forms of payment from players who gambled on their web-sites.

Payment Processors

Based on my training and experience, I know that, in order to facilitate the movement of funds to and from their customers, Internet gambling operators began using money-processing businesses generally called "Payment Processors." Typically, an Internet gaming operator sends a large check or wire transfer directly to the payment processor who then distributes the money, at the direction of the gaming site operators, to gamblers for their winnings. This is accomplished either by check or electronic transfer. As is demonstrated below, some of these processors may have been created specifically to move gambling money since 2006.

GoldenCasino.com

On July 14, 2008, Louisiana State Police officers (LSP) opened an undercover gambling account at the website GoldenCasino.com. According to the website www.online-gambling-insider.com, GoldenCasino.com is operated by the Golden Palace Casino Group. When LSP attempted to deposit \$100 into the gambling account, the transaction was declined. LSP contacted the number for assistance posted on the website, and the contact person stated that it appeared that the bank was blocking the transaction because internet gambling is an illegal activity in the United States. After speaking with a second customer service representative of GoldenCasino.com, LSP was successful in depositing money into the online gambling account and after acquiring a balance on the account, requested a payout.

The initial payout check came in August 2008 from Interco

Finance Corporation and was drawn on a Royal Bank of Canada account, but it was returned for insufficient funds. Included with the check was a letter from Interco Finance Corporation Customer Service providing a contact number for any questions. It was signed by a customer service representative whose name was different from the two telephone representatives mentioned above. LSP contacted Golden Casino and the officer spoke with a third customer service telephone representative, who said to fax a copy of the canceled check to the GoldenCasino.com accounting department. An LSP officer then contacted Interco Finance Corporation directly about receiving another payout check and spoke with the individual who had signed the above-mentioned letter. The customer service representative advised that he would contact GoldenCasino.com and have them issue another check.

LSP then received a second check in April 2009, this one from **Atrium Financial Group** and drawn on Fifth Third Bank account 7432031131. A letter that was sent with the check advised that "to avoid any unnecessary inconvenience when depositing or cashing this check, if asked, simply explain that this is a payment from a large online service provider and that the funds were sent to you at your request." This demonstrates that Golden Casino was using both Interco Finance and Atrium Financial as payment processors for gambling payouts.

**Interco Finance and Atrium Financial**

According to its public website, Interco Finance Corporation is a Canadian business engaged in check printing and disbursement. According to another public website, Con-Tex Converters listed the owner of Interco Finance as its contact person. This person's name was different from the individuals

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already mentioned above.

According to its public website, Atrium Financial Group (AFG) is a check printing and disbursement company located at 1000 North West Street, Suite 1200, Wilmington, Delaware. A check of this address reveals the company does not have an office there; the address instead is a registered agent. The owner and operator of AFG is a Canadian citizen with no immigration status or known address in the U.S. This person is different from the other individuals mentioned above.

I checked several online gambling sites and found numerous blog postings referring to checks received from AFG as payouts for online gambling winnings.

#### AFG Bank Records

Records pertaining to an AFG account at Mercantile Bank in the U.S. indicate that between December 2008 and January 2009, AFG received \$1.2 million from a Con-Tex Converters account at the Bank of Cyprus, in Nicosia, Cyprus, and \$334,970 from a Con-Tex Converters/Interco Finance Corporation account at Dominion Bank, Toronto, Canada. During that same time period, AFG issued 1,473 checks against the Mercantile Bank account to persons located in the United States; at least two of these checks were mailed to two Maryland residences. In August 2009, I participated in an interview of one of the payees of the Maryland checks and that person admitted that the check was proceeds of online gambling. Most checks were valued between \$400 and \$3,000, which, based on my training and experience, is consistent with payouts of gambling winnings. The account was closed by Mercantile Bank in February 2009 based on suspicion that the account was involved with illegal gambling activity.

Records pertaining to an AFG account at Sovereign Bank in

the U.S. indicate that between December 2008 and February 2009, AFG received \$379,683 from the Con-Tex Converters account in Nicosia, Cyprus, and \$234,000 from an Interco Finance Corporation account at Banque Nationale du Canada, Montreal, Canada. During that same time period, AFG issued 759 checks to persons located in the United States, and most checks were between \$400 and \$3,000, which is consistent with payouts of gambling winnings. The account was closed by Sovereign Bank in July 2009 based on suspicion that the account was involved with illegal gambling activity.

Records pertaining to an AFG account at Wachovia Bank in the U.S. indicate that between October 2008 and March 2009, AFG received a total of \$1.5 million from the Con-Tex Converters accounts in Cyprus and Canada. During that same time period, AFG issued a large number of checks to persons located in the United States, and most checks were between \$400 and \$3,000, which is consistent with payouts of gambling winnings. The account was closed by Wachovia Bank in March 2009 based on suspicion that the account was involved with illegal gambling activity.

Records pertaining to an AFG account at National City Bank in the U.S. indicate that between June 2009 and July 2009, AFG received approximately \$1.1 million in 11 wires from Con-Tex Converters in Cyprus and 3 wires from another company in Canada. During that same time period, AFG issued a large number of checks to persons located in the United States, and most checks were valued below \$3,000, which is consistent with payouts of gambling winnings. The account was closed by National City Bank in July 2009 based on suspicion that the account was involved with illegal gambling activity.



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Records pertaining to an AFG account at TD Bank North in the U.S. indicate that between November 2008 and July 2009, AFG received approximately \$1.3 million from the Con-Tex Converters account in Cyprus, and \$249,634 from an Interco Finance Corporation account in Canada. During that same time period, AFG issued a large number of checks to persons located in the United States. Most checks were valued below \$3,000, which is consistent with payouts of gambling winnings. The account was closed by TD Bank North in July 2009 based on suspicion that the account was involved with illegal gambling activity. All of the AFG accounts mentioned above were opened during the last week of October 2008 and the first week of November 2008.

All of the deposits into the AFG accounts mentioned above were international wire transfers and were the sole sources of funds into the accounts.

I reviewed checks drawn against the Interco Finance Corporation account at the Royal Bank of Canada, and found a check dated February 2008 that was sent to a residential address in Maryland. In August 2009, I participated in an interview of the payee of the Maryland check and that person admitted that the check was proceeds of online gambling.

**Fifth Third Bank account 7432031131  
in the name of Atrium Financial Group**

I reviewed records pertaining to Fifth Third Bank account 7432031131 in the name of Atrium Financial Group and found that the account is funded almost exclusively by wire transfers from Interco Finance Corporation accounts in Canada and Con-Tex Converters accounts in Cyprus.

Records pertaining to Atrium Financial Group account 7432031131 at Fifth Third Bank indicate that between December

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2008 and June 2009, the account received approximately \$3.3 million from **Con-Tex Converters and Interco Finance Corporation**. All deposits were in the form of wire transfers with "payment for disbursement" listed in the transfer notes.

During that same time period, AFG issued nearly 4,000 checks totaling approximately \$3.1 million. Based on my training and experience, it takes a staff of several individuals to process and mail that volume of checks. Those checks were mailed to and deposited by persons in the United States. During July and August 2009, 35 checks were issued to residential addresses in Maryland. One of these recipients was previously interviewed and admitted that an earlier check from Interco Finance Corporation was proceeds of online gambling. Most of the checks were in amounts under \$3000, which is, as outlined above, consistent with payouts of gambling winnings. This demonstrates that the **Fifth Third Bank account 7432031131** is involved in the movement of gambling proceeds in violation of 18 U.S.C. sections 1955 and is engaged in, and involved in, the movement of gambling business proceeds in violation of 18 U.S.C. sections 1084 and 1956, and 31 U.S.C. section 5363.

**Wilmington Savings Fund Society account 209230358  
in the name of Atrium Financial Group**

Records pertaining to **Wilmington Savings Fund Society account 209230358 in the name of Atrium Financial Group** indicate that between October 2008, and March 2009, deposits from **Con-Tex Converters and Interco Finance Corporation** were the sole source of funds into the account. All the payments were in the form of wire transfers.

During that same time period, AFG issued approximately 575 checks mostly in amounts between \$1,000 and \$3,000, which is, as

outlined above, consistent with payouts of gambling winnings. One check was mailed to an individual in Texas who confirmed to the bank that the check was proceeds of online gambling.

This demonstrates that the **Wilmington Savings Fund Society** account 209230358 in the name of **Atrium Financial Group** is involved in the movement of gambling proceeds in violation of 18 U.S.C. sections 1955 and was engaged in, and involved in, the movement of gambling business proceeds in violation of 18 U.S.C. sections 1084 and 1956, and 31 U.S.C. section 5363.

#### Commingled Funds

Your affiant knows that courts have held that there is no requirement that a substantial portion of the commingled funds in an account be derived from the criminal activity, so long as there is some evidence that some of the commingled funds were from criminal activity. United States V. Ward, 197 F.3d 1076 (11<sup>th</sup> Cir. 1999). The Fourth Circuit has also stated that when funds are drawn from a commingled account, the government is entitled to a presumption that the transaction involves criminally derived funds. United States V. Wilkinson, 137 F.3d 214 (4<sup>th</sup> Cir. 1998).

Your affiant knows that in forfeiture cases, the probable cause standard is the same as that in search and seizure cases, requiring a court "'to make a practical, common-sense decision whether, given all the circumstances set forth ... there is a fair probability' that the properties to be forfeited are proceeds of illegal ... transactions." United States v. Thomas, 913 F.2d 1111, 1114 (4th Cir. 1990) (drug case).

#### Out of state warrants

Based upon my training and experience, I know that 18 U.S.C. section 981(b)(3) provides that "a seizure warrant may be

issued ... by a judicial officer in any district in which a forfeiture action against the property may be filed under Section 1355(b) of title 28, and may be executed in any district in which the property is found...." According to 28 U.S.C. Section 1355(b), a forfeiture action may be brought in "the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred...." Because some of the gambling transactions were conducted in Maryland and some of the payouts of gambling proceeds were mailed to Maryland, the forfeiture action can be brought in Maryland, and the seizure warrants may be issued in Maryland.

Further, based upon the my training and experience, in the event that this Court grants this application for seizure warrant, I believe there is a likelihood that the account will continue to receive wire transfers of funds to be used in furtherance of the above-described conduct for a period of time after such warrants are initially executed. It is probable that those involved in the above-described conduct will be unable to promptly stop the flow of funds or inform all of their contacts of this investigation. As such, I request that any warrant issued by this court order the receiving bank to allow funds to be credited to the account but to disallow any of such funds to be debited out of the accounts for any reason for a period of 21 days from the issuance of such warrants. I ask that ICE be allowed to periodically remove such funds after initial execution of any seizure warrant during that 21 day period.

V. Conclusion

Based on the foregoing, I submit that there is probable cause to believe that the following property constitutes the

proceeds of an illegal gambling business and is forfeitable pursuant to 18 U.S.C. sections 981(a)(1)(C) and 1955(d), and also that it was involved in money laundering transactions made in violation of 18 U.S.C. section 1956(a)(2)(A) and is subject to seizure and forfeiture pursuant to 18 U.S.C. section 981(a)(1)(A):

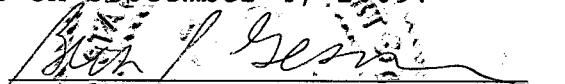
The contents of Fifth Third Bank account 7432031131 in the name of Atrium Financial Group and located in Fort Lauderdale, Florida.

The contents of Wilmington Savings Fund Society account 209230358 in the name of Atrium Financial Group and located in Wilmington, Delaware.



Augusta B. Ferenc, Special Agent  
Immigration and Customs  
Enforcement

Subscribed and sworn before me on September 4, 2009.



Beth P. Gesner  
United States Magistrate Judge