Commitments made, cancellation withdrawn

Grassroots Trust has agreed to suspend its operations for 16 days for failing to distribute a minimum of 37.12% of gaming machine proceeds to authorised purposes and exceeding the limit allowed for venue expenses in the financial year ending March 2010. This is the longest suspension any Class 4 society has received.

The trust has also agreed to licence conditions that require it to distribute a minimum of 40% of GMP to the community and to limit the expenses it pays to its venues under Limit D to 14.5% per cent, rather than the statutory cap of 16% per cent.

Gambling Compliance Director, Debbie Despard, is encouraged that Grassroots was able to work with the Department to achieve results which ultimately will benefit the community through providing more funds for grant distribution. The trust also committed itself to be a best-practice operator and adjusted its funding practices to better target community need through more diverse board membership.

Grassroots sought to negotiate with the Department after initially taking legal action over the Secretary’s decision to cancel Grassroots’ licence following an audit which revealed compliance breaches. As part of the negotiated outcome Grassroots is withdrawing High Court action and its appeal to the Gambling Commission and the Department is withdrawing the licence cancellation.

Debbie Despard said the successful end to negotiations shows the Department is prepared to be flexible in order to achieve maximum compliance.

“Where an operator is willing to work with us, even in the face of serious non-compliance, we will weigh up the options in the context of likelihood of future compliance,” Debbie Despard said.

“We engaged with the trust over the results of our audit and, after initially challenging the Secretary’s decision through a legal process, Grassroots sought to resolve issues so that it could continue to operate.

“By working through this together, the Department and Grassroots have been able to turn non-compliance into compliance and set high expectations for the future.

“Gaming trusts exist to maximise gaming machine proceeds to the community and ultimately the community will benefit from the commitments that Grassroots has made.”
Security at gambling venues

Security at gambling venues is of increasing concern following two recent hold-ups.

Venues should always exercise caution and consider the adequacy of security measures. Any high cash turnover business will tend to attract thieves’ attention with the risk of aggravated violence.

Gambling venues should exercise caution especially when cashing up at the end of the day or when proceeds are being banked.

The need for specific security staff or contractors will vary from venue to venue depending on the level of total turnover and the proportion of this turnover held in cash.

The turnover of the principal business activity is likely to determine whether security personnel are required. It is very unlikely that gambling operations would be the primary reason for engaging security personnel.

Data publication and security

Corporate societies have raised concerns that the quarterly publication of gaming machine proceeds (GMP) from Class 4 gambling operations has implications for the security of venues.

Gaming machine statistics are published on the Department’s website: www.dia.govt.nz/gambling

The statistics are based on clusters of venues by geographical location, with a minimum of three venues in each cluster, with the exception of the sole venue on the Chatham Islands.

As territorial local authority boundaries change such as with the new super city in Auckland these clusters may change. In some cases, a cluster grouping may be identifiable as having higher turnover, but no single venue should be exposed to a greater risk of theft than others in the cluster.

Security guard costs

The costs of security guard pickup of gaming machine proceeds could only be considered a necessary cost of a gambling operation if this resulted in lower costs than appropriate insurance cover, or if a track record of theft prevented insurance cover. Note that it is still possible to have a theft even when using security companies to undertake banking.

Over half of all Class 4 gambling venues claim security costs in their Venue Costs Schedule. These costs fall under Limit C of the Notice of Limits and Exclusions on Class 4 Venue Costs Notice (the 2008 Gazette Notice). Security costs must represent the actual, reasonable and necessary (ARN) security costs of the gambling operation at the Class 4 gambling venue. The costs associated with security personnel or equipment may be claimed proportionately, as with other costs such as electricity, if the services are provided for the principal business operation as well as gambling.

It would be exceptional for a “bouncer” located at a venue’s main entrance to be considered a necessary gambling operation expense. It is more likely that such security costs would be associated with the principal business activity.

Confirmation needed

By way of contrast, the presence of security personnel when the day’s gambling proceeds are counted is more likely to represent an ARN expense. If the security cover also includes counting proceeds from the principal business, which is likely, then the cost would need to be apportioned.

The need for security would have to be confirmed, as many venues may not have sufficient gaming machine proceeds to warrant such a measure. An extra person on site would normally be expected to provide other services in addition to security. This could include cleaning or assisting with counting cash, and so may already have hours counted. Careful assessment as to the necessity and reasonableness of all costs, not just security costs, should be undertaken prior to the signing of a venue agreement between a venue and a society.
Class 4 venue signage

A number of societies have asked the Department for guidance over the costs associated with displays and signage. Signs are important to informing the public and all Class 4 gambling venues have them for various purposes. But what signage can a venue or society claim as a reasonable and necessary cost against gambling proceeds?

**Exterior signs**

The name of a venue and any exterior signage about the purpose of the venue has to be the domain of the business owners because they relate to the primary business purpose. The cost of any sign naming the venue and describing or advertising its business activities cannot be claimed as an actual, reasonable or necessary expense.

Exterior signage can be installed by a society, with the permission of the venue owner, to inform the public that gambling facilities are provided at the venue. The sign, in this case, represents part of the fundamental infrastructure of the gambling operation and is a society cost. This cannot be a development, enhancement or maintenance (DEM) cost for a venue.

A single sign in front of a venue or attached to the structure could be interpreted to be a reasonable and necessary cost. In some cases a second sign may be considered necessary if the venue has a second street frontage. The form of the sign could vary, but the cost should always be reasonable for the purpose intended.

Signs must be able to be easily removed by a society should the venue change ownership or the venue licence be cancelled or not be renewed.

As with all costs incurred by a corporate society, a test of whether an expense is both necessary and reasonable should be applied prior to expenditure being incurred, consistent with the advice of the Gambling Commission.

If any exterior sign installed by a corporate society includes the name of the venue, then the venue owner must pay for that portion of the sign's cost that relates specifically to the venue. The inclusion of a venue name on the sign is not a necessary cost of gambling, and as a result, costs of signage cannot be incurred by a venue or by a society.

**Interior signs**

Signs in the immediate vicinity of the gambling area are primarily a matter for the corporate society.

No sign incorporating the name of the venue would be considered necessary, except for fulfilling any information requirements under the Gambling Act 2003 or any licence condition. For example, one of the licence requirements for all Class 4 venue licence holders is that the venue “must ensure that the Class 4 venue licence is at all times displayed in clear view of the public and in close proximity to the gaming machines at the relevant venue”.

The costs of displaying the licence represent a necessary cost for a corporate society. This expense cannot be a venue cost.

As is the case for exterior signage expenses, no claim can be made by a venue for interior signage costs.

A corporate society may be able to incur expenditure from gaming machine proceeds for signage in a Class 4 venue, subject to the normal tests of necessity and reasonableness.

Typical signage, installed by a corporate society, would include information on how to apply for a grant from the corporate society and provide information on gaming machine rules and jackpots.

**Society branding by grant recipient**

It is not necessary for a grant recipient to acknowledge any grant received from a corporate society. Generally a letter of appreciation from the grant recipient to the corporate society should suffice.

There is nothing in law to prevent a grant recipient from incorporating society branding on any sign, but if a grant recipient incurs costs in displaying a society's name or logo, one would have to question whether this was use of net proceeds for an authorised purpose under the Gambling Act.

If the grant recipient had other funds available for branding, then the recipient may not have needed the same level of authorised-purpose funding from the corporate society.
Theft of gaming machine proceeds

The Department should be informed of any theft of gaming machine proceeds (GMP), along with the police and the relevant corporate society.

In such a situation it is possible that either the proceeds of gambling or the float is stolen or both. A float is owned by the venue, but gambling proceeds represent community money.

Game Rule 38 of the Gambling Act (Class 4 Game Rules) 2006 states that “all cash removed from gaming machines is the responsibility of the venue operator until such time as it is banked in accordance with the requirement of the Act and any relevant rules, regulations or licence conditions”.

Section 104 of the Gambling Act requires a venue manager to bank proceeds of gambling within the time period specified in regulations (five days). This requirement places responsibility on the venue to maintain the security of GMP.

Venues are reminded that they should hold adequate insurance against theft, as they are responsible for the banking of GMP regardless of whether a theft has occurred or not. The costs of insuring GMP and the float (and other insurances related to the gambling area) will generally be necessary costs. The costs must also be actual and reasonable.

Late banking may result from a theft. The Department and the relevant corporate society should always be alerted to any late banking situation, regardless of the circumstances. While late banking due to theft may be treated as an exceptional circumstance by the Department, resulting in no sanctions against a venue operator, it will still be important to advise the Department as soon as practicable and to ensure that banking of proceeds does occur as soon as possible following a theft.

ILT Foundation demonstrates good practice

The Invercargill Licensing Trust (ILT) Foundation consistently returns well above the minimum 37.12 per cent in gaming machine proceeds (GMP) to the community.

It operates 181 gaming machines exclusively in licensed premises owned by the ILT and returned 68.5 per cent of GMP in 2011 and 62.9 per cent in 2012 making it the highest returner of all gaming machine societies.

The foundation’s funding presence is evident in Invercargill where it has supported new facilities and ensured an equitable spread of grants to about 300 community organisations annually.

Facilities funded include:

- Stadium Southland and ILT Velodrome - an international, multi-purpose community sports venue and indoor cycling track
- An international standard, all-weather hockey complex and Southland Soccer pavilion upgrade and artificial football turf – a boon for those sports in the Invercargill climate
- SPCA premises upgrade
- Calvary Hospital premises upgrade
- Sixty defibrillators in a variety of Invercargill locations, already credited with saving four lives
- The installation of interactive whiteboards in most Invercargill primary and secondary school classrooms and the delivery of teacher training to ensure full and effective use of the equipment.

The ILT also deserves recognition for some of its gambling harm minimisation techniques and measures including:

- A multi-venue gaming machine self-exclusion policy programme for all venues in the Invercargill area including those operated by other societies
- Designing a help card, available at all ILT venues, that provide contacts for counseling, budgeting and self-exclusions
- Working closely with Nga Kete Matauranga Pounamu Charitable Trust, which provides health and social services particularly related to drug, alcohol and gambling problems
- Operating a venue policy where all jackpot winnings are paid in $50 notes, which are not accepted by gaming machines

The ILT also has a policy in its venues of not permitting more than three eftpos withdrawals per day.
GMP not used for lobbying

At least four gambling societies have advised the Department they have not used gaming machine proceeds (GMP) to fund activities around the Gambling (Gambling Harm Reduction) Amendment Bill now before Parliament.

The Department wrote to gaming trusts reminding them of requirements under the Gambling Act 2003 and making clear that the use of community funding for lobbying purposes is not an actual, reasonable and necessary cost (ARN). The bill is now before Parliament’s Commerce Committee and public submissions closed on 21 June.

Gambling Compliance Director Debbie Despard told societies that the Department appreciated that they would have an interest in and want to communicate their views on the bill but lobbying activities cannot incur costs against gaming machine net proceeds. She was encouraged by assurances that bill-related activity was funded privately.

The Gambling Commission addressed the question of ARN costs in two decisions in 2010 involving The Southern Trust and The Trusts Charitable Foundation (GC10/10 and GC11/10). The Commission said that societies can only incur costs that are actual, reasonable, and necessary in “conducting the gambling” and in legal compliance. These costs must be “necessary” in the first instance, which, the Gambling Commission held, following a Court of Appeal environmental law judgement, “is a fairly strong word falling between expedient or desirable on the one hand and essential on the other”.

The Commission said “necessary” means whether the cost can be incurred at all, while “reasonable” defines its quantum. The prohibition on incurring costs that are not actual, reasonable or necessary is consistent with the duty to minimise operating costs and maximise net proceeds.

Pokie venue can operate pending appeal

Claims that the Department had allowed an illegal pokie venue to operate in South Auckland was news to Auckland gambling inspectors.

The Galaxy Function Centre in Otara had never been unlicensed or run illegally. But the Auckland team had initiated action after visiting the venue in January 2011. This culminated in May this year with the Secretary cancelling the venue licence because the Department considered the venue was being used mainly for operating gaming machines. That decision has been appealed to the Gambling Commission and the law allows the venue to continue operating pending the outcome.

Replying to a parliamentary question from Mana Party Leader, Hone Harawira, the Minister of Internal Affairs, Chris Tremain, said the Department is unable to take further action while the decision is under appeal and the licence continues.

“That is made quite clear in sections 77 and 78 of the Gambling Act 2003,” Mr Tremain said.

Clarification - Cuesports’ licence cancellation

After carefully considering submissions from Cuesports Foundation Ltd the Department decided on 24 April 2012 to cancel the society’s Class 4 gambling licence.

Cuesports challenged the reference in the March 2012 issue of Gambits that it was “under decision to cancel Class 4 operator’s licence” because it had received only a proposal to cancel.

The three grounds for cancellation are:

- failing to return at least 37.12 per cent of its net proceeds to authorised purposes in 2009/10 and 2010/11
- failing to maximise net proceeds and minimise operating costs
- Lack of satisfaction about the suitability of two directors of the Foundation as “key persons”.

The Foundation has appealed the decision to cancel to the Gambling Commission.
GMP recovered... eventually

Canterbury’s 22 February 2011 earthquake continues to generate “war stories”. One of them concerns Christchurch’s Stockxchange bar in Cashel Street.

Venue manager Greg McClurg says the bar was badly damaged and access was limited due to the dangerous lean of the neighbouring Grand Chancellor Hotel.

“We finally managed to access our building after Easter 2011 to recover hard drives, cash and other valuables,” he said. “Our drop-in safe in the basement could not be opened because the locking pins had bent with the violence of the tremors.

“We advised the Canterbury Recovery Authority of the situation and when the demolition contractors moved in, CERA and police were on site to supervise the extraction of the safe, which was delivered to a panel beater friend to cut open.

“We recovered the GMP for the week ending 20 February 2011 and for 21 and part-22 February, promptly banked it to our gaming trust Pub Charity and advised DIA of the positive outcome.

“The date of extraction was 23 February 2012 - 366 days after the earthquake!”

Stockxchange established a new bar at the old Shirley Lodge, Marshland Road and intends to re-establish on its old site once the Holiday Inn is demolished.

EMS is five years old

Doesn’t time fly! It is five years since completion of the rollout of the Class 4 electronic monitoring system (EMS).

The Gambling Act 2003 required all pub and club gaming machines to be connected to the EMS no later than 18 March 2007. This was the culmination of over 10 years of planning. Support and effort from societies, venues, and gaming machine manufacturers meant this date was achieved ahead of time.

Intralot New Zealand, as the EMS service provider, played a major role and its professionalism contributed to the successful rollout.

Other achievements since March 2007 include:

• QCOM 1.6 implemented
• Player Information Displays’ harm minimisation project completed
• New jackpot standard introduced
• A new telecommunication service provided by Intralot for venues
• New generation of site controllers to be rolled out in July and to be completed by December 2013

The Integrated Gambling Platform will complement EMS and work is continuing to provide better access to EMS data and improved reports.

The EMS rollout was just the start. Five years on the Department has significant monitoring experience and it is opportune to take stock and review what can be done to improve EMS and consider its future shape.

The Department looks forward to the continuing success of EMS in partnership with the Class 4 gaming sector and technology providers Intralot and gambling equipment manufacturers

Comments and suggestions can be sent to: michael.cassidy@dia.govt.nz
Supervision essential for harm minimisation

The Department expects that access to venue gambling areas can be clearly monitored at all times to minimise harm and prevent access by minors.

Gambling Compliance Director Debbie Despard says societies and venues must ensure that the physical layout of the premises is conducive to proper supervision of gamblers and that venue staff are well versed in preventing and minimising harm.

The Department wants to offer assistance to societies to manage venue safety. Supervision is one aspect of that and gambling inspectors are available to advise venues on how best to overcome access issues.

The Department's expectations are backed by five Gambling Commission decisions since 2006, including GC 16/06 which set out a framework for considering the validity of proposed licence conditions.

All decisions are on the Commission's website: www.gamblingcommission.govt.nz

The Gambling Commission said in GC 10/12 it gave “serious consideration” to directing the Secretary to reconsider the gambling licence of The Sail and Anchor, Timaru, after it checked out the venue when considering The Southern Trust’s appeal against a licence condition restricting access to the pub's gambling area. Ultimately it recorded its concerns at the venue's lack of attention to the gambling area.

The Commission visited the venue twice.

“During the first visit, no staff appeared in the bar at all,” the Commission said. “During the second visit (which lasted about 45 minutes) the barperson did not emerge from the back of house area for several minutes, despite audible calls for assistance. When he did emerge, the barperson served several bar patrons before returning to the back of house area. At no time when the Commission was present did he check the gaming machine area, despite the lengthy periods of absence, during which time minors or banned gamblers could have easily accessed Class 4 gambling at this venue.”

The Commission confirmed, with some amendments, the Secretary’s decision to impose a condition that a secondary entrance to the gambling area must be closed unless the venue’s front entrance was staffed to identify and stop minors from entering the premises.

Host responsibility - PGF perspective

A fundamental requirement for a responsible host is to know who you are hosting, says Problem Gambling Foundation’s Research Director, Philip Townshend.

“This means knowing who is in the gambling area and how long they have been gambling,” he said. “Unless venue staff monitor the gambling area they cannot prevent excluded gamblers from entering, prevent underage gambling, or identify signs of problem gambling as required by their venue policy.

“To ensure venue staff can know who is in the gambling area they must be able to see who is entering it. This is the reason for closing unobserved access ways into the gambling areas.

“However, even where access to the gambling area can be observed, staff may not always know who is in there. Knowing this requires venue staff to observe who is in the gambling area either through CCTV and/or by physically monitoring it.

“Bearing in mind that staff don’t have to identify problem gamblers but must identify potential problem gamblers, a long gambling session or known customers who increase the time and money they spend gambling should prompt staff to start the process for a host responsibility intervention.

“The detection of both these signs of problem gambling requires staff to know who they are hosting. In turn this means a fundamental requirement of a safe gambling environment is that staff can monitor who goes into it and how long they spend gambling.”

A good example of responsible hosting was reported in the December 2011 issue of Gambits where staff at the Cruzaz Bar and Café, a First Sovereign venue in Tauranga, had systems which enabled them to identify a self-excluded problem gambler as she entered the venue and headed for the gaming room.
Surprise for gambler

Cooperation between Christchurch Casino and government agencies paid dividends recently.

The casino's host responsibility manager contacted Internal Affairs' gambling inspectors over a potential problem gambler who had already been excluded from SkyCity casinos. A check of Departmental records showed the individual had breached an exclusion order in Hamilton and that Immigration NZ was interested in him.

When the individual turned up for his interview with the casino host responsibility manager he found an immigration officer as well as two gambling inspectors. He confirmed he had been in the country illegally since June 2011. The police were called and the man was taken into custody to await a flight to his home country.

The whole process took a little over four hours from the casino notifying the Department of the interview to arrest.

MVEO programme extended

Christchurch, Lower Hutt and Auckland are the latest regions to establish multi-venue exclusion order (MVEO) programmes.

The Gambling Act 2003 provides for persons, who recognise that they have a gambling problem, to self-exclude from any venue for a maximum of two years. It can be daunting for someone to have to repeat the self-exclusion process at several venues and this is where the benefits of the programme come in.

The MVEO programme allows problem gamblers to register for exclusion at one venue and select other venues to be notified of their decisions.

The system was developed by Department gambling inspectors in 2006 and has been adopted in several areas including, Invercargill, Dunedin, Nelson, Hamilton, Rotorua, Tauranga.

Gambling sector attends PG forum

Service providers and gambling sector representatives collaborated at the Problem Gambling National Providers’ Forum in Auckland.

The forum usually focuses on treatment and clinical issues but the sector has been working with providers on multi-venue exclusion orders and, for the first time, provided an industry panel and workshop on harm prevention and minimisation (HPM).

Representatives from the Lion Foundation, NZ Community Trust, NZ Racing Board and NZ Lotteries spoke about their host responsibility and HPM policies and practices and answered questions about successes and barriers to working with patrons on problem gambling issues.

FUNDING FOR COMMUNITY GROUPS, VISIT

www.dia.govt.nz/gambling
**Poker ruling upheld**

The Court of Appeal has held that tournament poker for which entry fees are paid is gambling.

The Department charged TVWorks Ltd, operator of TV3 and C4, with Gambling Act breaches for publishing overseas gambling advertisements for the Asia Pacific Poker Tour (APPT) in 2007 and pokerstars.net websites. The District Court dismissed the charges in 2010 finding that tournament poker and .net (free to play) websites were not gambling. However, the decision on tournament poker was reversed by the High Court on appeal on a point of law. TVWorks subsequently appealed that decision to the Court of Appeal.

The December 2010 issue of Gambits reported the High Court judgment and noted that the rules about live poker in bars have not changed. Gambling Fact Sheet 13 - Poker (www.dia.govt.nz/gambling), provides relevant information as did an article in Gambits June 2010, page 15. The Court of Appeal said that the tournament entrance fee allowed a participant to acquire chips in order to participate and wager and was a payment of money which is directly or indirectly staked on the outcome of the poker game. It also said that the outcome of the APPT tournament depended in part at least on chance and therefore came within the definition of gambling under the Gambling Act. TVWorks was required to pay costs to the Department.

**Hells Angels’ appeal dismissed**

The Gambling Commission has backed the Department’s refusal to license the Hells Angels Nomads Motorcycle Club to run a lottery. The Department was not satisfied about the suitability of the applicant, its officers and the organiser of the lottery. Dismissing the club’s appeal (GC 05/12), the Commission concluded there was a real risk that a reputedly criminal organisation with members convicted of involvement in class A drug dealing, theft, burglary, receiving, fraud and money laundering would use the opportunity offered by licensed gambling to facilitate money laundering. The club submitted that convictions taken into account by the Department were irrelevant to its suitability to conduct a Class 3 gambling operation.

The club submitted that convictions for violence, drug-dealing and manslaughter do not reflect on a person’s ability to conduct fair and honest gambling as part of a wider group. But the Commission said that, while there was no express requirement to consider criminal history, convictions should always be a potential concern because they were evidence of past failures to act in accordance with the law. Certain convictions would be likely to give rise to more concern than others.

Evidence that the club would run a “clean game” was only one of the factors to take into account when suitability was being considered.

**Commission questions industry focus**

The Gambling Commission says it appears that current industry practice in the Class 4 gambling sector does not have a real focus on maximising returns and minimising costs.

Instead, it said in a recent decision (GC 06/12), the Class 4 Net Proceeds Regulations and Limit D of the Venue Costs Gazette Notice are treated as “standardised limits with effective compliance being achieved if societies return at least 37.12 per cent and do not incur costs of more than 16 per cent”.

The Commission said the Secretary and societies alike treat the regulatory venue costs limits as a compliance target, with the result that expenditure below that target is treated as an effective entitlement. That is not consistent with the primary focus of the language of the Act itself and it encouraged the Secretary to scrutinise other societies against the same standard of actual, reasonable and necessary expenditure.

The Commission said compliance with Limit D is a “requirement of the Act”, the Gazette Notice limits are not mere targets and non-compliance should generally have consequences. Blue Waters Community Trust, Pub Charity Incorporated and Trillian Trust licences were each suspended for one day for breaching Limit D. Trillian did not dispute the Limit D breach but a High Court judgment quashed a five-day suspension which included breaches of section 52 (1) (d). The court held that the obligations in s 52 are imposed only on the Secretary, not an operator.
Changes proposed for our gambling services

Reforming the state sector for better value, less duplication of effort and improved coordination means change has become almost constant within government organisations, including the Department of Internal Affairs.

Further change will be made to the staffing arrangements for the administration and regulation of the gambling sector following a review of the capacity and capability of the Regulatory and Compliance Operations (RCO) group.

The review was foreshadowed last year when the Department restructured on integrating with other state agencies. It proposes a more focused approach to RCO's compliance and enforcement work, which, apart from gambling, includes censorship, anti-spam, private security and anti-money laundering responsibilities.

RCO General Manager, Maarten Quivooy, says an effective regulator must be able to adapt its responses to regulated parties.

“Regulatory work is about pursuing collaborative, negotiated outcomes with regulated sectors while also maintaining an effective and credible enforcement capability,” he said. “Our focus continues to be on minimising harm and maximising benefit.”

Key features of the proposed changes are:

- Developing a more consistent and coordinated approach with casinos focused on systems auditing with closer linkages to other gambling, financial integrity and organised crime work
- A strengthened ability to investigate complex or serious breaches of law, wilfully unlawful or grossly negligent behaviour to enable more decisive, appropriate, timely and effective action to be taken
- Enhanced focus on encouraging and promoting increased compliance through focused gambling compliance teams
- A new sector initiatives team to drive and support innovation, respond to trends and risks and have a strong focus on harm and benefit
- Enhancing the licensing function to enable more robust auditing of new entrants and continued participants in the sector
- Strong focus on building capability within the group.

Staff are being consulted before final decisions in August and a new structure implemented on 1 October.

Grants involved forged documents

19 March 2012

An Internal Affairs investigation into gaming machine grants to a Tokoroa rugby club resulted in a local businessman pleading guilty to 11 charges involving forgery, making false documents and ‘key person’ offences.

Judge James Weir fined David Boyd Foote, aged 79, company director, a total of $750 plus costs of almost $400 for:

- Forging other persons’ signatures on grant application documents
- Creating false ‘competitive’ quotes for submitting with applications
- Obtaining kitchen equipment for his venue paid for out of grant money.

On the eight other charges he was convicted and discharged.

Mr Foote was chairman of Tokoroa’s Southern United Rugby Football Club and joint director and shareholder of a local bar where the Grassroots and Producers Trusts operated gaming machines.

Mr Foote organised grants for the club of almost $418,000 from these trusts between January 2006 and June 2010. He was also involved in arranging and presenting quotes used to account for the grant money.

His lawyer, Phillip Morgan QC, said the offending was not driven by dishonesty or for financial gain for himself or the club.

The rugby club was a community facility which had become run down. As chairman, the defendant set about raising funds to rebuild and refurbish the club rooms.

“Members of the executive of the rugby club noted that other community organisations had greater success in obtaining grants from gaming machine trusts when they operated their own gaming venues and allowed the gaming machine trusts to have their machines in those venues,” Mr Morgan said.

Judge Weir said the offending was out of character and arose from Mr Foote’s desire to help and progress the sports clubs.

He was entitled to be treated with leniency.
MEDIA RELEASES

Charges laid over false statement

3 June 2012

A Blenheim man is to appear in the Blenheim District Court on a charge laid by the Department of Internal Affairs.

Michael Joseph O’Brien, 53, a race horse owner and trainer of Blenheim, has pleaded not guilty to making a false statement with intent to deceive, under section 242(1)(b) of the Crimes Act 1961.

The allegation concerns statements made by Mr O’Brien to a Department investigator in October 2009 regarding his involvement with the Blenheim-based gambling society, Bluegrass Holdings Limited.

No date has been fixed for the defended hearing.

Sentenced for defrauding community of pokie grants

25 May 2012

An Internal Affairs investigation uncovered a pokie machine rort that resulted in a significant loss of grant funding going to the community. The investigation revealed that numerous grant applications to gaming machine societies from Counties Manukau Bowls (CMB), an umbrella organisation for South Auckland bowling clubs, were fraudulent.

From late 2006 to September 2009 Counties Manukau Bowls employed Noel Henry Gibbons, 79, of Manurewa, to apply for gaming machine grants.

Mr Gibbons implemented a scheme whereby constituent clubs or CMB itself would invest indirectly in purchasing pubs where pokie machines operated – so that in turn those clubs could benefit from grants of pokie machine proceeds.

Mr Gibbons also applied for grants from gaming machine societies for “bowling green maintenance” - but some of the money was used illegally to repay loans for the purchase of pubs. This money should have been distributed to local community purposes as grants. Paying off loans is a commercial and illegal use of funding generated from pokie machines.

Mr Gibbons fabricated quotes and invoices from “green keeping contractors” to support grant applications and the provision of services. None of those named in the invoices as billing for a service knew anything of the work they were supposed to have done.

He was sentenced in the Manukau District Court to six months’ community detention for obtaining $605,550 by deception and of using forged documents.

Judge Charles Blackie said Gibbons’ offending was a “very elaborate” scam and an “unlawful scheme”. The defendant knew he acted dishonestly each time he made a false application and this was at the expense of the community.

Judge Blackie emphasised the need to hold the defendant accountable and responsible, to deter others who might be inclined to “rip off” the system, and to provide for the community’s interests as the victims of this offending. He adopted a starting point of two years six months’ imprisonment but imposed a lenient sentence because of Gibbons’ guilty plea, advanced age and poor health.

Maarten Quivooy, Internal Affairs’ General Manager of Regulatory and Compliance Operations said organisations cannot expect that buying into pokie machine venues will ensure favourable treatment for grant applications.

“It’s illegal and the Department works to ensure that pokie money, which belongs to the community, is protected,” he said. “We want to ensure that community groups have fair access to gambling-generated funds and will take action over any attempts to capture funding flows that are detected.

“We are very pleased that our investigation has led to Mr Gibbons being held accountable for fraud, and for defrauding his community. A clear message to the gambling sector is this: where we come across deliberate and wilful attempts to take community funding we will take strong and decisive action to hold people accountable”.

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Pokie expenditure drops in first quarter

Gaming machine expenditure in the country’s 1400 pubs and clubs in the first three months of 2012 was almost 8 per cent down on the last three months of 2011, continuing the trend that occurs over summer.

Figures released by the Department of Internal Affairs show that spending dropped from $220.4 million in the fourth quarter of 2011 to $203.7 million in the first quarter of 2012. But for the 12 months ended March 2012 expenditure was up 2.3 per cent from $845.9 million to $865.4 million.

The spending is captured through the electronic monitoring of non-casino gaming machines (EMS), which became fully operational in March 2007, enabling the Department to track and monitor operations, ensure the integrity of games and the accurate accounting of money.

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<th>SOCIETY TYPE</th>
<th>TOTAL GMP QUARTER</th>
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<td>Non-Club</td>
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<td>86.7%</td>
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<tr>
<td>Sports Clubs</td>
<td>3,684,561.70</td>
<td>1.9%</td>
</tr>
<tr>
<td>Chartered Clubs</td>
<td>16,345,841.46</td>
<td>8.0%</td>
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<tr>
<td>RSAs</td>
<td>7,138,796.07</td>
<td>3.5%</td>
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<tr>
<td><strong>Total Club</strong></td>
<td>27,169,199.23</td>
<td><strong>13.3%</strong></td>
</tr>
<tr>
<td><strong>Total All</strong></td>
<td>203,651,845.73</td>
<td><strong>100.0%</strong></td>
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</tbody>
</table>
Further information, including numbers of venues, machines and expenditure by territorial authority and changes in the quarter, is available from the Department's Gaming Statistics web page at: www.dia.govt.nz/gambling. The figures are based on territorial authority boundaries that existed prior to the new Auckland super city.

Open 24 hours a day

0800 654 655
GM societies’ contacts

The Department’s gambling compliance and licensing inspectors each have responsibilities for liaising with gaming machine societies. If societies have issues to discuss, they may contact these inspectors first by phoning the Department’s toll free number 0800 257 887.

<table>
<thead>
<tr>
<th>SOCIETY</th>
<th>COMPLIANCE INSPECTOR</th>
<th>LICENSING INSPECTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHAURA/GREY VALLEY LIONS CLUB INC</td>
<td>Mark Thomson ext 3142</td>
<td>Janet Wong ext 5505</td>
</tr>
<tr>
<td>AIR RESCUE SERVICES LTD</td>
<td>Pete Collins ext 7043</td>
<td>Niall Miller ext 5485</td>
</tr>
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<td>AOTEAROA SPORTS FOUNDATION LTD</td>
<td>Stephen Balmer ext 7923</td>
<td>Niall Miller ext 5485</td>
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<tr>
<td>BLUE WATERS COMMUNITY TRUST</td>
<td>Artie McClelland ext 7915</td>
<td>Jasmine Rangiwhetu ext 5491</td>
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<tr>
<td>BLUEGRASS TRUST</td>
<td>Dave Macdonald ext 3152</td>
<td>Niall Miller ext 5485</td>
</tr>
<tr>
<td>BLUESKY COMMUNITY TRUST LTD</td>
<td>Stephen Balmer ext 7923</td>
<td>Jasmine Rangiwhetu ext 5491</td>
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<tr>
<td>BULLER COMMUNITY DEVELOPMENT CO LTD</td>
<td>Greg Clark ext 3153</td>
<td>Anna Panchenko ext 5764</td>
</tr>
<tr>
<td>CHRISTCHURCH E’QUAKE RECOVERY TRUST LTD</td>
<td>Pete Collins ext 7043</td>
<td>Rochelle Goodwin-Kanara ext 5350</td>
</tr>
<tr>
<td>CONSTELLATION COMMUNITIES TRUST INC</td>
<td>Artie McClelland ext 7915</td>
<td>Jasmine Rangiwhetu ext 5491</td>
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<tr>
<td>CUESPORTS FOUNDATION LTD</td>
<td>John Hennebry ext 7939</td>
<td>Niall Miller ext 5485</td>
</tr>
<tr>
<td>DRAGON COMMUNITY TRUST LTD</td>
<td>Artie McClelland ext 7915</td>
<td>Craig Holmes ext 5486</td>
</tr>
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<td>ENDEAVOUR COMMUNITY FOUNDATION LTD</td>
<td>Garth Cherrington ext 5520</td>
<td>Rochelle Goodwin-Kanara ext 5350</td>
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<td>FIRST SOVEREIGN TRUST</td>
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<td>FIRST LIGHT COMMUNITY FNDN LTD</td>
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<td>Stephen Balmer ext 7923</td>
<td>Rochelle Goodwin-Kanara ext 5350</td>
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<tr>
<td>HUCKLEBERRYS SPORTS &amp; CHARITABLE SOC INC</td>
<td>Ann Maxwell ext 5258</td>
<td>Jasmine Rangiwhetu ext 5491</td>
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<tr>
<td>ILT FOUNDATION</td>
<td>Tony Climo 03 409 2158</td>
<td>Janet Wong ext 5505</td>
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<td>INFINITY FOUNDATION LTD</td>
<td>Rick Mead ext 5667</td>
<td>Brent Addison ext 5345</td>
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<td>Rochelle Goodwin-Kanara ext 5350</td>
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<td>LIONS CLUB OF OHA-INGHTCAPS INC</td>
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<td>Craig Holmes ext 5486</td>
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<td>MAINLAND FOUNDATION LTD</td>
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<td>Janet Wong ext 5505</td>
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<td>MANUKAU COUNTIES COMMUNITY FLITES C T</td>
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<td>Kahill Madden ext 5630</td>
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<tr>
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<td>Anna Panchenko ext 5764</td>
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<td>NAUTILUS FOUNDATION</td>
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<td>NEW ZEALAND COMMUNITY TRUST</td>
<td>Jason Hewett ext 5264</td>
<td>Janet Wong ext 5505</td>
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<td>NEW ZEALAND RACING BOARD</td>
<td>Jason Hewett ext 5264</td>
<td>Niall Miller ext 5485</td>
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<td>OXFORD SPORTS TRUST INC</td>
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<td>PELOUS TRUST</td>
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<td>Stephen Batenburg ext 7923</td>
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<td>PUB CHARITY</td>
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<td>REDWOOD TRUST INC</td>
<td>Dave Macdonald ext 3152</td>
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<td>SOUTHERN VICTORIAN C T INC</td>
<td>Ron Grob ext 6603</td>
<td>Niall Miller ext 5485</td>
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<tr>
<td>ST KILD COMMUNITY SPORTS SOC</td>
<td>Ron Grob ext 6603</td>
<td>Niall Miller ext 5485</td>
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<td>THE AKARANA COMMUNITY TRUST LTD</td>
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<td>Rochelle Goodwin-Kanara ext 5350</td>
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<tr>
<td>THE BENDIGO VALLEY SPORTS &amp; CHARITY FNDN</td>
<td>Ron Grob ext 6603</td>
<td>Jasmine Rangiwhetu ext 5491</td>
</tr>
<tr>
<td>THE BRUNNER RUGBY LEAGUE CLUB INC</td>
<td>Mark Thomson ext 3142</td>
<td>Brent Addison ext 5345</td>
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<tr>
<td>THE NORTH &amp; SOUTH TRUST LTD</td>
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<td>Janet Wong ext 5505</td>
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<td>THE RUNANGA COM’Y SWIMMING POOL TRUST</td>
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<td>Duane Calvert ext 6609</td>
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<tr>
<td>TRILLIAN TRUST</td>
<td>Lance Daly ext 7921</td>
<td>Kahill Madden ext 5630</td>
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<tr>
<td>YOUTHTOWN INC</td>
<td>Lance Daly ext 7921</td>
<td>Kahill Madden ext 5630</td>
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</tbody>
</table>
Gambling compliance issues are covered by Regulatory Compliance Operations which sits within the Department’s Policy, Regulatory and Ethnic Affairs branch under Deputy Chief Executive, Paul James. The branch encompasses all the roles where the Department is, in effect, the regulator of a sector of the economy. In addition to gambling, this includes censorship and anti-spam compliance, fire service policy, identity services policy, local government and community policy, civil defence and emergency management policy and crown entity monitoring functions, Office of Ethnic Affairs and the Office for the Community and Voluntary Sector. For the sake of simplicity, functions outside of the gambling sector are not included on this page.

### Regulatory Compliance Operations

**General Manager, Regulatory and Compliance Operations**

Maarten Quivooy

This position covers all regulation and compliance operations (and operational policy) including anti-spam, censorship, gambling, racing, anti-money laundering and countering financing of terrorism.

**Director of Gambling Compliance**

Debbie Despard

This position is responsible for the Inspectors and other staff working with the gambling sector to bring about compliance with the law. The Director works closely with Policy so that there is a constant flow of information between the staff involved in applying the law and those who develop the law.

**Director, Operations Support**

Alison Barrett

This position provides support and assistance to operational compliance functions across the group and wider Department.

**Manager, Anti-Spam and Censorship Compliance**

Steve O'Brien

**Manager, Anti-Money Laundering and Countering Financing of Terrorism**

Kate Reid

**Manager, Operational Policy**

Heather McShane

Operational policy provides support and advice to the Gambling Inspectors and other staff working in the sector. It develops standards, game rules and other “deemed regulations”. In broad terms, its role is to develop Department policies for how the law will be turned into the work done in the field.

**Manager, Licensing**

John Currie

This position has prime responsibility for Class 4 Licensing, championing a new electronic licensing regime and management oversight of the Electronic Monitoring System contract with IntraLot.

**Manager, Gaming Technology**

Michael Cassidy

This position oversees the technical integrity of gaming issues across casino and all other classes of gambling.

**Manager, Performance Assurance**

Sanjay Sewambar

This unit focuses on ensuring that the Gambling Compliance Group achieves both its strategic objectives (short and long-term) and its business goals. It coordinates strategic and business planning for GCG as well as providing robust analysis, monitoring and reporting around performance.

**Manager, Anti-Money Laundering/Countering Financial Terrorism**

Kate Reid

Under The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 this unit monitors casinos, non-deposit-taking lenders, money changers and reporting entities not covered by the other supervisors, The Reserve Bank and the Securities Commission.
The Department of Internal Affairs produces Gambits quarterly. Copies are distributed in March, June, September and December.

Gambits provides information about the Department’s recent work and significant issues in the gambling sector.

It is intended for sector organisations and the community in general, to increase understanding of and compliance with the law.

Editor: Trevor Henry
Telephone: (04) 495 7211, 0275 843 679
Email: trevor.henry@dia.govt.nz

Do you want to receive Departmental media releases and Gambits?

If you would like to have your organisation added to the Department’s distribution list for media releases about gambling issues, or want to receive Gambits but are not currently on the mailing list, please fill out this form and return it, or email the information to:

Department of Internal Affairs, PO Box 805, Wellington 6140. Communications Advisor
Trevor Henry, telephone (04) 495 7211, fax (04) 495 7224, email trevor.henry@dia.govt.nz