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Pennsylvania General Assembly
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Honorable Members of the General Assembly:

I write on behalf of the Coalition for a Safe and Regulated Internet, a group with the stated mission of legalizing and regulating online gaming to better protect consumers in individual states. The Coalition to Stop Internet Gambling ("CSIG") submitted a memorandum to the Legislature on January 23, 2017 ("the CSIG Memo"), in which it launched a preemptory attack on House Bill 392, which would effectively legalize online gaming within the Commonwealth's borders.

The CSIG Memo misleadingly opines that any Pennsylvania law would not be "grandfathered" in to the existing Department of Justice ("DOJ") interpretation of the Wire Act ("the Act") under the 2011 Opinion of the Office of Legal Counsel ("OLC"), if the DOJ takes any steps under the new administration to qualify or even reverse this opinion.

Simply put, the CSIG Memo is a scare tactic that intentionally misconstrues the existing state of the law in the hopes of killing House Bill 392. The analysis in this memorandum is intended to rebut the CSIG Memo and provide legal support for these critically important points:

- The probability of the 2011 OLC Opinion being reversed, based on past practice in the office, is extraordinarily low—less than three percent.

- Even if the new administration were to reverse the OLC Opinion, it would have *no legal effect* on the validity of state laws authorizing online gaming. The federal appellate precedent interpreting the Wire Act has concluded that it only applies to sports betting. This precedent remains the controlling legal authority regardless of what OLC opines.

- Because OLC opinions do not create or change federal law, any change in OLC's position will not affect the established reach of the Act, and thus the viability of House Bill 392.

- Furthermore, no state or state actors that pass laws legalizing online gaming would face criminal prosecution by DOJ. There is no record of nor legal precedent for DOJ to criminally prosecute a state legislator or state official for passing a state law that is later held to be preempted by federal law. Such a prosecution would not be in keeping with the First Amendment or the reservation of powers enshrined in the Tenth Amendment.

I. An abrogation of the 2011 OLC Opinion would have no effect on the existing legal framework guiding the interpretation of the proper scope of the Wire Act, and would not expose States that legalize online gaming to any criminal or civil liability for passing such laws.

In 2011, OLC issued an Opinion addressing whether the Wire Act applied only to acts of sports betting, or rather generally to all online gambling. 35 Op. O.L.C. 1 (2011), http://www.justice.gov/olc/2011/state-lotteries-opinion.pdf. After a careful and thorough analysis of the text and legislative history, OLC concluded that Congress intended the Wire Act to apply only to sports-based gambling activity. *Id.* at 1. In determining that the Wire Act's use of the term "on any sporting event or contest" modified each prohibition of "bets or wagers" in subsection 1084(a), the OLC exhaustively analyzed the text, *id.* at 3-5, and comprehensively considered the legislative history of the Wire Act. *Id.* at 6-10. It concluded that the supporting history established that Congress was focused upon off-track betting on horse races, as well as the expected negative effect of betting on baseball, basketball, football, and boxing. *Id.* at 8-9. OLC additionally pointed to the Interstate Transportation of Wagering Paraphernalia Act, a contemporaneously passed statute, and its specific inclusion of "lottery-style games" as comparative evidence that the Wire Act's authors could have clarified the broader reach of the Act had they any interest in doing so. *Id.* at 10-11.

The CSIG Memo strongly suggests that a reversal of the 2011 OLC Opinion is imminent. However, past practice in the Office of Legal Counsel suggests otherwise. A 2010 study of every published OLC opinion dating back to 1977, when OLC first began publishing its opinions, shows that only 2.43 percent of the 1,191 published OLC opinions have ever been overruled or withdrawn. Trevor W. Morrison, *Stare Decisis in the Office of Legal Counsel*, 110 Columbia L. Rev. 1448, 1480 (2010). This is entirely consistent with internal OLC guidance. For example, the July 2010 OLC Best Practices Memorandum states that "OLC opinions should consider and ordinarily give great weight to any relevant past opinions of Attorneys General and the Office. The Office should not lightly depart from such past decisions, particularly where they directly address and decide a point in question." *Id.* at 1453 (citing Memorandum from David J. Barron, Acting Assistant Att'y Gen., Office of Legal Counsel, to Attorneys of the Office, Re: Best Practices for OLC Legal Advice and Written Opinions 2 (Jul. 16, 2010)).

The CSIG Memo also makes much of the notion that a withdrawal of the 2011 OLC Opinion would expose states and individuals to liability. This is simply not true. The CSIG Memo's suggestion to the contrary is misleading and plainly wrong. If the 2011 OLC Opinion were abrogated, such an action would not alter the existing legal framework. The text, legislative history, and federal appellate precedent interpreting the scope of this Act, which serve as the fundamental sources underpinning this prevailing interpretation, would remain (*See* Part II, below). This established federal statutory scheme, as interpreted by the federal courts, remains in place independent of any change in opinion by OLC. The CSIG Memo focuses on the unremarkable conclusion that an opinion distributed by OLC does not bind federal courts or receive more than the type of legal deference that might be afforded a law journal article or position paper. This is true and remains true in the event of any future OLC Opinion that disagrees with the currently stated OLC position.

The CSIG Memo additionally argues that "[r]egardless of whether the OLC Opinion is withdrawn, federal laws other than the Wire Act bar certain forms of online gambling. For example, the Unlawful Internet Gambling Enforcement Act ("UIGEA"), 31 U.S.C. §§ 5361-6367, prohibits the acceptance of any financial instrument for 'unlawful Internet gambling.'" This assertion, that UIGEA independently bans online gambling under federal law and would preempt any state law legalizing such activity is demonstrably false. UIGEA is wholly derivative in nature—it provides additional federal enforcement tools, *but only* with respect to forms of online gambling that have been independently made unlawful *under other federal or state law*.[1] UGIEA's provisions make clear that UIGEA does not substantively prohibit any form of gambling that is not independently prohibited by another federal or state law. Accordingly, were Pennsylvania to legalize online gaming, nothing in UIGEA would conflict with such legislation. Thus, the argument in the CSIG Memo that UIGEA provides independent federal authority criminalizing internet gambling is both disingenuous and without support.

Because the withdrawal of the OLC Opinion would not fundamentally alter the existing legal framework interpreting the Act, it is pure fiction to suggest that any withdrawal would be accompanied by a flood of federal investigations and prosecutions, or that the targets of any such investigation would be unable to rely upon the 2011 OLC Opinion for immunity from prosecution. The memo claims that "states . . . will not be able to claim immunity or reliance on the OLC Opinion," suggesting that if a State passes a law permitting online gaming but the OLC Opinion is withdrawn, the State could face criminal prosecution. But that is plainly false.

First, the relevant "crime" under the Wire Act would be operating or participating in a gambling enterprise, neither of which are acts that the state itself would be involved in. The Wire Act does not criminalize the legislative act of authorizing state gambling. Second, in the event that a State legislature passes a law that, if challenged, is subsequently found to be in conflict with a federal law, and the court finds that the federal law preempts state laws on the same subject, the well-established remedy is that the state law would be struck down under the federal preemption doctrine of the Supremacy Clause. *See, e.g.*, *PLIVA, Inc. v. Mensing*, 564 U.S. 604, 608-09 (2011). But, to be certain, there is no incidence of, or precedent for, a state legislature or state official to be criminally prosecuted for passing a state law that is subsequently found to be preempted by a federal law. A suggestion to the contrary is not in keeping with the First Amendment, the reservation of powers enshrined in the Tenth Amendment, or the constitutional tradition of this nation.

[1] Specifically, UIGEA defines "unlawful Internet gambling" as involving "a bet or wager which is unlawful under any applicable Federal or State Law in the State . . . in which the bet or wager is initiated, received, or otherwise made." 31 U.S.C. § 5362(10)(A). Furthermore, Section 5361(b) of UIGEA establishes as a "rule of construction" that "[n]o provision of [UIGEA] shall be construed as altering, limiting or extending any federal or State law . . . prohibiting, permitting or regulating gambling." Notably, the CSIG Memo cites to neither of these provisions.

II. Key federal case law, the statutory text, legislative history, and important policy concerns all uniformly indicate that the Wire Act only applies to sports betting.

The CSIG Memo essentially implies that the 2011 OLC Opinion is the only statement of law relevant to the question of whether a state law can legalize online gaming without consequence. This is, simply stated, grossly misguided. The OLC Opinion is a distillation of all sources of law applicable to the legal analysis; it is not, in and of itself, mandatory authority. Both federal appellate courts that have addressed the issue have specifically held that the Wire Act applies only to sports betting, and not to other forms of online gaming (Part A). These decisions are amply supported by the Act's plain text and its legislative history (Part B), as well as multiple policy concerns (Part C).

A. The primary federal precedent interpreting the scope of the Wire Act has held that the Act applies only to sports betting, and not to other forms of online gaming.

The most authoritative decisions on this issue, two federal appellate decisions, have independently concluded that the Wire Act only applies to sports betting. Both the First and Fifth Circuit have confronted the issue of whether this statute broadly prohibits interstate wires with regard to any act of gaming, gambling, or wagering, or rather only prohibits interstate wires with regard to "bets or wagers on any sporting event or contest." Both have soundly concluded the latter, that the Wire Act only prohibits interstate sports betting activities. *See United States v. Lyons*, 740 F.3d 702, 718 (1st Cir. 2014) ("The Wire Act applies only to 'wagers on any sporting event or contest,' that is, sports betting."); *Thompson v. MasterCard Int'l Inc.*, 313 F.3d 257, 263 (5th Cir. 2002). These opinions presently constitute the prevailing, controlling interpretation of the Act.[2]

This prevailing interpretation, moreover, comports with a long tradition of how federal prosecutors across the nation have understood this Act since its inception, stretching well before the OLC issued any opinion interpreting the scope of this Act in late 2011. Contrary to the CSIG Memo's inaccurate assertion that the OLC Opinion "overturn[ed] fifty years of interpretation of the Act as applying to all forms of gambling," as the universe of federal appeals of Wire Act convictions obtained prior the late 2011 opinion show, the overwhelming majority of appeals of convictions under this Act prior to any influence of the OLC opinion involved the prosecution of a sports betting enterprise.[3] This uniformity in the kind of betting schemes subjected to prosecution—overwhelmingly sports betting—is not a matter of coincidence. This data suggests that prosecutors across the nation, as with our federal courts, have properly interpreted the Act as narrowly targeting sports betting, and thus have chosen to narrowly focus on such activities in enforcing this law.

[2] Only one court, a district court in Utah, has opined differently, and it did so only in dicta. *See United States v Lombardo*, 639 F. Supp. 2d 1271, 1278-79, 1281-82 (D. Utah 2007) (recognizing that the indictment would survive even if the Act were read to only apply to sports betting because the indictment properly qualified its reach to only such activity).

[3] Out of the universe of federal appellate cases arising from convictions under the Wire Act, the nature of the gambling underlying the conviction was verifiable in 55 cases. *See* Appendix I. In 98%, or 54 of 55, of these cases, the nature of the gambling activity at issue involved sports betting. In the only non-sports betting case, it did not involve online gaming, but rather a private lottery. For the remaining 28 cases, the nature of the gambling at issue was not verifiable.

Furthermore, this data suggests that rather than changing the interpretation of the law, in issuing its opinion, OLC did nothing more than crystallize what federal prosecutors across the nation already understood the Wire Act to target.

B. The Act's text and legislative history confirm that it only applies to sports betting.

The First and Fifth Circuits' decisions, furthermore, are well supported under several key interpretive methods. First, they comport with the better reading of the plain text of the statute as well as its legislative history. The Wire Act provides:

> 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 under this title or imprisoned not more than two years, or both.

18 U.S.C. § 1084(a) (emphasis added). Under *Thompson* and *Lyons*, the statutory phrase "on any sporting event or contest" is read as modifying each instance of "bets or wagers" in subsection 1084(a), rather than only the instance it directly follows. Under such a reading, the Act only prohibits acts of sports betting, and not other forms of betting, wagering, or gaming. This reading comports with traditional principles of statutory interpretation, alone comports with the Act's legislative history, and is necessary to avoid multiple practical oddities that would result were the contrary reading correct.

Notably, unlike with respect to other federal acts, the Act nowhere defines the terms "bet" or "wager." To clarify any ambiguity in the breadth of these terms, long-standing canons of statutory construction counsel that the meaning of general terms ("bets or wagers") be informed by adjacent, more specific terms ("on any sporting event or contest"). *United States v. Williams*, 553 U.S. 285, 294 (2008) ("[A] word is given more precise content by the neighboring words with which it is associated."). The phrase "on any sporting event or contest" plainly refers to sports betting, and thus as it modifies the phrase "bets or wagers," limits the pertinent kinds of bets or wagers to those involving sports betting. While this qualifying phrase appears only in the first clause of Section 1084(a), and not in its second clause,[4] the references to "bets or wagers" in this second clause are best read as shorthand references to the "bets or wagers on any sporting event or contest" described in the first clause.

The prevailing interpretation of this statute, adopted by both federal appellate courts in *Lyons* and *Thompson*, is further confirmed by the Wire Act's legislative history. Particularly in light of the arguably ambiguous construction of the Act's provisions, courts must consult the legislative history of the Wire Act to understand the meaning of the Act, and its terms must be construed strictly. *See United States v. Bergland*, 318 F.2d 159, 161 (7th Cir. 1963) (holding that the terms

[4] The second clause of Section 1084(a) prohibits "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."

"'gambling,' 'bets,' and 'wagers' . . . . [were not] so plain and unambiguous that there [was] no need to resort to legislative history."). The Act's legislative history reveals that Congress had a single, paramount goal in enacting this law—to stop the use of wire communications for sports gambling in particular. Congress was principally focused on off-track betting on horse races, but also expressed concern about other sports-related events or contests, such as baseball, basketball, football, and boxing. The pervasiveness of this overarching concern in the legislative history is thoroughly addressed in the OLC 2011 Opinion in which the DOJ opined that this Act applied only to sports betting. 35 Op. O.L.C. at 8-10. It is similarly considered in *In re Mastercard Int'l Inc.*, 132 F Supp. 2d 468, 480-81 (E.D. La. 2001), on whose analysis the Fifth Circuit relied in *Thompson*, 313 F.3d at 263; *see also Lyon*, 740 F.3d at 718 (adopting rationale of *Thompson*). The legislative history, accordingly, further supports the interpretation adopted in *Thompson* and *Lyons*.

C. Three important policy concerns further counsel that the Wire Act must be read as only applying to sports betting.

Interpreting the Wire Act as only applying to sports betting is also necessary to protect states' rights and to avoid multiple practical oddities and possible constitutional violations. First, the prevailing interpretation better comports with concerns for states' rights. Adopting the CSIG Memo's more expansive interpretation of the Wire Act would pose serious questions regarding the proper balance of state and federal authority for enforcing purely local crimes. "'The regulation of gambling lies at the heart of the state's police power.'"[5] As the OLC opinion recognized, if the more expansive interpretation applied, the Wire Act would sweep into its scope purely in-state lottery activity simply by virtue of the fact that sales were made over the Internet. It rejected the more expansive interpretation in part based on this concerning result. It reasoned, "the conclusion that the Wire Act prohibits state lotteries from making in-state sales over the Internet creates 'a potential oddity of circumstances' in which 'the use of interstate commerce,' rather than simply supplying a jurisdictional hook for conduct that is already wrongful, would transform otherwise lawful activity—state-run in-state lottery transactions—into wrongful conduct under the Wire Act." 35 Op. O.L.C. at 3. This is precisely the kind of intrusion into a traditional area of state responsibility that implicates concerns regarding states' rights and counsels in favor of the prevailing interpretation.

Second, the interpretation adopted by both federal appellate courts to have addressed the issue is necessary to avoid inconsistency with another federal statute, UIGEA. Under UIGEA, "[n]o person engaged in the business of betting or wagering may knowingly accept [any financial transactions] in connection with the participation of another person in unlawful Internet gambling." § 5363. Under this Act, "unlawful Internet gambling" means "to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet" in a jurisdiction where applicable federal or state law makes such a bet illegal. *Id.* § 5362(10)(A). However, UIGEA also specifies that "unlawful Internet gambling" does not include bets "initiated

[5] Behnam Dayanim & Kathleen K. Sheridan, *Wire Act "Restoration" or "Revisionism"? The Revolutionary Aims of So-Called "Restoration" Efforts*, 20 Gaming L. Rev. & Econ. 504, 504 (2016) (quoting *Gulfstream Park Racing Ass'n v. Tampa Bay Downs*, 399 F.3d 1276, 1278 (11th Cir. 2005)).

and received or otherwise made exclusively within a single State," *id.* § 5362(10)(B), and expressly provides that "[t]he intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received, or otherwise made," *id.* § 5362(10)(E). Accordingly, on its face, under UIGEA, Congress appears to have provided a "safe harbor" for the intermediate out-of-state routing of electronic data associated with lawful gaming transactions that otherwise occur in-state. Yet, the Wire Act would forbid that precise thing, if interpreted expansively to extend to all online gaming. Thus, the prevailing interpretation alone comports with the judicial imperative to reconcile these statutes.

Finally, under the broader interpretation, it would be a crime under the Act to transmit information assisting any kind of gaming (sports betting or otherwise) if the transmitter was entitled to money or credit in exchange for transmitting the same information. Furthermore, the following provision of the Act provides a safe harbor *only* for transmissions of information involving sports betting, and not for transmissions of information for other kinds of games.[6] These provisions, in sum, under the broader interpretation, would mean that a news reporter covering events at the World Series of Poker, for example, who receives compensation for reporting such events that is directly deposited into her bank account, would be subject to criminal prosecution, while a reporter covering NFL games with a similar compensation arrangement would not. Such a reading comports neither with common sense nor the First Amendment of the U.S. Constitution.

Conclusion

In short, the CSIG Memo suggests that (a) there could be a change in position of DOJ's OLC, and (b) that such a change would effectively criminalize online gaming conducted by adults within the confines of Pennsylvania pursuant to its laws. This is simply not true, and the CSIG Memo's suggestion to the contrary is wrong. The current OLC Opinion merely reflects the judicial and prosecutorial understanding of the Wire Act's scope, rather than some form of binding precedent. In the event that the 2011 OLC Opinion were abrogated, such an action would not alter the existing legal framework. The text, legislative history, and federal appellate precedent interpreting the scope of this Act, which serve as the fundamental sources underpinning this prevailing interpretation, would remain. As discussed above, both federal appellate courts that have addressed the issue have specifically held that the Wire Act applies only to sports betting, and not to other forms of online gaming. These decisions are amply supported by the Act's plain text and its legislative history, as well as multiple policy concerns. As a result, any change in the OLC's position is unlikely, but even if it were to occur, it would be extremely unlikely to lead to federal prosecutions or challenges to state-sanctioned, non-sports betting.

[6] *See* § 1084(b) ("Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting *of sporting events or contests*, or for the transmission of information assisting in the placing of bets or wagers on a *sporting event or contest* . . .") (emphasis added).

Sincerely,

Thomas A. Decker
Vice Chairman, Cozen O'Connor

COZEN O'CONNOR

Appendix I

1. **First Circuit**
   - *United States v. Albertelli*, 687 F.3d 439 (1st Cir. 2012) (gambling businesses involving sports betting, "football cards," and video poker)
   - *United States v. Southard*, 700 F.2d 1 (1st Cir. 1983) (sports betting by bookmaking)
   - *Sagansky v. United States*, 358 F.2d 195 (1st Cir. 1966) (betting and wagering on horse races by telephone)

2. **Second Circuit**
   - *United States v. Battista*, 575 F.3d 226 (2d Cir. 2009) (NBA sports betting scheme by telephone)
   - *United States v. Cohen*, 260 F.3d 68 (2d Cir. 2001) (operating a bookmaking organization which assisted customers in placing bets on sporting events by telephone or internet)
   - *United States v. Masciarelli*, 558 F.2d 1064 (2d Cir. 1977) (sports betting by telephone)
   - *United States v. Armiento*, 445 F.2d 869 (2d Cir. 1971) (bookmakers accepting bets on horse races and baseball games by telephone)
   - *United States v. Covello*, 410 F.2d 536 (2d Cir. 1969) (sports betting and wagering by telephone)
   - *United States v. Kelley*, 395 F.2d 727 (2d Cir. 1968) (bookmaker placing and facilitating bets by phone)

3. **Third Circuit**
   - *United States v. Atiyeh*, 402 F.3d 354 (3d Cir. 2005) (transmiting bets and wagers on sporting events by telephone)

4. **Fourth Circuit**
   - *United States v. Falcone*, No. 90-5344, 1991 U.S. App. LEXIS 1559 (4th Cir. 1991) (accepting wagers on sporting events by telephone through bookmaking business)
   - *United States v. Porter*, 909 F.2d 789 (4th Cir. 1990) (gambling on sporting events by telephone)
   - *United States v. Palmer*, 667 F.2d 1118 (4th Cir. 1981) (used booking business to receive and place bets on sporting events)
   - *United States v. Fuller*, 441 F.2d 755 (4th Cir. 1971) (bookmaking business used in transmitting sporting bets and wagers)
   - *United States v. McGowan*, 423 F.2d 413 (4th Cir. 1970) (sports wagering by telephone)

5. Fifth Circuit

- *United States v. Montford*, 27 F.3d 137 (5th Cir. 1994) (bookies took bets on football games through cell phones)
- *United States v. McDonough*, 835 F.2d 1103 (5th Cir. 1988) (receiving bets on baseball and football games by telephone)
- *United States v. Clements*, 588 F.2d 1030 (5th Cir. 1979) (transmitting bets on sporting events by telephone)
- *United States v. Campagnuolo*, 592 F.2d 852 (5th Cir. 1979) (placing of wagers on sporting events)
- *United States v. Doolittle*, 507 F.2d 1368, 1374 (5th Cir. 1975) (bookmaking operation facilitating the placement and acceptance of wagers based upon the outcome of professional baseball games)
- *United States v. Sellers*, 483 F.2d 37 (5th Cir. 1973) (transmitting wager and betting information for basketball games through bookmaking operation)
- *United States v. Marder*, 474 F.2d 1192 (5th Cir. 1973) (wagering information relative to sporting events through bookmaking)
- *United States v. Ippolito*, 438 F.2d 417, 418 (5th Cir. 1971) (receiving and recording unlawful bets or wagers on the outcome of baseball games)
- *Nolan v. United States*, 395 F.2d 283 (5th Cir. 1968) (transmitting by telephone bets and wages on football games and information assisting in the placing of bets and wages)
- *Martin v. United States*, 389 F.2d 895 (5th Cir. 1968) (transmitting wagers and bets by telephone for sporting events, contests, and football games)

6. Sixth Circuit

- *United States v. Hilf*, No. 98-2027, 1999 U.S. App. LEXIS 32239 (6th Cir. Dec. 7, 1999) (placing bets with sports bookmakers and made bets on behalf of other gamblers)
- *United States v. Sevenski* 878 F.2d 382 (6th Cir. 1989) (operating a sports bookmaking operation by telephone)
- *United States v. Denton*, 556 F.2d 811 (6th Cir. 1977) (transmitting sports bets and wagers by telephone)
- *United States v. Votteller*, 544 F.2d 1355 (6th Cir. 1976) (conducting bookmaking business and facilitating bets and wagers on sporting events and horse racing)
- *United States v. O'Neill*, 497 F.2d 1020 (6th Cir. 1974) (transmitting wagers on horse races by telephone to bookmakers and other gamblers)

7. Seventh Circuit

- *United States v. Tedder*, 403 F.3d 836 (7th Cir. 2005) (creating a sports book and business to move money between gamblers in the U.S)
- *United States v. D'Ambrosia*, 313 F.3d 987, 987 (7th Cir. 2002) (operating illegal sports book-making operation)
- *United States v. Anderson*, 542 F.2d 428 (7th Cir. 1976) (sports betting by bookmaking)

- *United States v. McLeod*, 493 F.2d 1186 (7th Cir. 1974) (sport betting by bookmaking and telephone)
- *United States v. Stonehouse*, 452 F.2d 455 (7th Cir. 1971) (operator of tavern who accepted wagers on sporting events)
- *United States v. Ruthstein*, 414 F.2d 1079 (7th Cir. 1969) (horse race betting by bookmaking)
- *United States v. Bergland*, 318 F.2d 159 (7th Cir. 1963) (past-posting and sports betting by bookmaking)

8. Eighth Circuit

- *United States v. Bala*, 489 F.3d 334 (8th Cir. 2007) (horse race betting through operators)
- *United States v. Sutera*, 933 F.2d 641 (8th Cir. 1991) (sports betting through bookmaking using family-owned business)
- *United States v. Segal*, 867 F.2d 1173 (8th Cir. 1989) (sports betting through bookmaking)
- *United States v. Reeder*, 614 F.2d 1179 (8th Cir. 1980) (sports betting and wagering by bookmaking)
- *United States v. Scavo*, 593 F.2d 837 (8th Cir. 1979) (sports betting and wagering through bookmaking)
- *United States v. Civella*, 533 F.2d 1395 (8th Cir. 1976) (sport betting and waging through bookmaking and by phone)
- *Gillespie v. United States*, 368 F.2d 1 (8th Cir. 1966) (sport betting and wagering through bookmaking)

9. Ninth Circuit

- *United States v. Donaway*, 447 F.2d 940 (9th Cir. 1971) (horse race betting)
- *United States v. Swank*, 441 F.2d 264 (9th Cir. 1971) (horse track betting and fixing races and using bookmakers)
- *United States v. Lazarus*, 425 F.2d 638 (9th Cir. 1970) (sports betting by bookmaking)
- *Vitello v. United States*, 425 F.2d 416 (9th Cir. 1970) (horse betting through bookmakers)
- *Cohen v. United States*, 378 F.2d 751 (9th Cir. 1967) (football game and heavyweight boxing match wagering by telephone)
- *Turf Center, Inc. v. United States*, 325 F.2d 793 (9th Cir. 1963) (business conducted 'pull-tab' games involving betting and wagering on sporting events)

10. Tenth Circuit

- *United States v. Vinaithong*, No. 97-6328, 1999 U.S. App. LEXIS 6527 (10th Cir. Apr. 9, 1999) (creating private lottery system mimicking state lottery)
- *United States v. Blair*, 54 F.3d 639 (10th Cir. 1995) (taking, placing, and accepting wagers and bets on sporting events through bookmaking)

- *United States v. Villano*, 529 F.2d 1046 (10th Cir. 1976) (betting scheme for football and basketball games through bookmaking)

11. Eleventh Circuit

- *United States v. Miller*, 22 F.3d 1075 (11th Cir. 1994) (sports betting bookmaking operation)

12. D.C. Circuit

- *United States v. 6,976,934.65*, 554 F.3d 123 (D.C. Cir. 2009) (online sports betting)