

Washington County



Craig R. McKay
First Assistant

Detective
J. Michael Aaron
Chief

Office of the District Attorney
Steven M. Toprani, District Attorney
One South Main St., Suite 1003
WASHINGTON, PENNSYLVANIA 15301
Telephone (724) 228-6790

NEWS RELEASE

FOR IMMEDIATE RELEASE – Tuesday October 6, 2009

CONTACT STEVEN G. FISCHER, CHIEF OF STAFF, 724-228-6790

STATE POLICE ARREST THREE ACTORS IN CASINO FRAUD FOLLOWING GRAND JURY INVESTIGATION

Washington, PA — District Attorney Steven M. Toprani today announced the arrest of three Allegheny County men as part of a Grand Jury investigation concerning a large scale theft from the Meadows Casino. On Friday, October 2, a grand jury returned a presentment directing the District Attorney to initiate criminal proceedings against the three. The grand jury investigation was requested by the Pennsylvania State Police, Gaming Enforcement Office attached to the Meadows.

The grand jury identifies Andre M. Nestor (d/o/b 12/14/1971 of 103 Chalmers Street, Pittsburgh) as the central figure in a concerted scheme to defraud the Meadows' of more than \$420,000.00 over a two month period. The grand jury found that NESTOR worked with Kerry A. LAVERDE (d/o/b 10/28/1959 also of Chalmers Street), a former Swissvale police officer, and Patrick B. LOUSHIL (d/o/b 12/06/1966 of 351 Brookline Blvd., Pittsburgh) in a ruse aimed at deceiving casino personnel to pay out illegitimate jackpots from a compromised slot machine. Investigators described the co-conspirators actions as a sophisticated scheme that is the first of its kind in Pennsylvania. In July, authorities in Nevada arrested a Las Vegas man for a similar scheme. The investigation continues.

Nestor, Loushil and Laverde were initially identified by agents of the Gaming Control Board following questionable jackpots they were claiming. The Gaming Enforcement division of the Pennsylvania State Police commenced a criminal investigation. After reviewing the evidence collected by the State Police, the grand jury recommended that charges be brought against the three for theft and fraud related charges as well as conspiracy.

District Attorney Steven Toprani commented, "We remain diligent in addressing the unique challenges associated with legalized gaming." He further emphasized that "While gaming may be relatively new in Pennsylvania, designing criminals will continue to cheat

the system. This investigation and arrest shows that law enforcement is well prepared for the challenge and will use all tools available to eliminate the criminal threat. I thank the Pennsylvania State Police and the Gaming Control Board for remaining vigilant in their efforts.”

Meadows Vice President and General Manager Sean Sullivan was also quoted as stating, “This is an excellent example of what happens when the District Attorney, Pennsylvania State Police, and the Pennsylvania Gaming Control Board work together. The message is clear – commit a crime at a Pennsylvania casino and you will pay the consequences. As a result, the Meadows remains a safe place for people to enjoy themselves in a fun and relaxed environment.”

All defendants are presumed innocent until proven guilty.

#

#

#

Commonwealth of Pennsylvania



The First Investigating Grand Jury of Washington County

IN RE: : IN THE COURT OF COMMON PLEAS
: OF WASHINGTON COUNTY,
: PENNSYLVANIA
THE FIRST INVESTIGATING :
GRAND JURY : NO. MD 368-09
OF WASHINGTON COUNTY : INVESTIGATION NO. 1 PER NOTICE 3

PRESENTMENT NUMBER 2

TO THE HONORABLE DEBBIE O'DELL SENECA, PRESIDENT JUDGE,
SUPERVISING JUDGE OF THE FIRST INVESTIGATING GRAND JURY:

We, the First Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth of Pennsylvania, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We find reasonable grounds to believe that a violation of the criminal laws has occurred. So finding with not fewer than twelve concurring, we do hereby make this Presentment to the Court.

X #53

Foreman
First Investigating Grand Jury

DATED: 10/2/09, 2009

PRESENTMENT

We, the members of the First Investigating Grand Jury of Washington County, having received evidence pertaining to offenses against the laws of the Commonwealth of Pennsylvania and violations of the Crimes Code, and pursuant to the Notice of Submission of Investigation Number 3, Investigation 1, do hereby make the following Presentment, setting forth Findings of Fact and Recommendation of Charges.

As a result of our investigation, the Grand Jury concludes that probable cause exists to believe that Andre Michael NESTOR, Patrick B. LOUSHIL, and Kerry Allan LAVERDE, did conspire together and with others known and unknown to this Grand Jury to illegally obtain monies by fraud, deceit, trick, or deception, did receive said illegally obtained funds and did illegally access, manipulate or cause to be accessed or manipulated, a computer device in obtaining said illegal funds.

INTRODUCTION AND INVESTIGATION SUMMARY

On or about July 5, 2004, Pennsylvania passed legislation authorizing limited slot machine gaming by Act 71, known as "The Pennsylvania Race Horse Development and Gaming Act." The legislation provided additional revenue to the state and the horse racing industry. Due to the potential problems associated with legalized gaming, the operation of slot machines and revenue collection is regulated heavily. Thus, the Pennsylvania Gaming Control Board (hereafter "Board") is solely responsible for the distribution of licenses and the regulation of

casinos. Casinos are responsible to the Board for revenue accounting and other reporting requirements pursuant to the Board's regulations.

By statute, there are three distinct classifications of slot licenses. Category I licenses are reserved for licensed thoroughbred racetrack facilities as defined by the "Race Horse Industry Reform Act." Category II licenses are stand alone slot parlors reserved for cities of the first class, cities of the second class or tourist locations. Category III licenses are reserved for well-established resort hotels having no fewer than 275 guest rooms located in the Commonwealth.

On or about September 27, 2006, the Board granted a Category I license to the Washington Trotting Association, Meadows Racetrack, a thoroughbred racing facility located in North Strabane Township, Washington County, at Racetrack Road. Upon approval of the license, the Meadows constructed a temporary casino and ultimately, following years of construction, the permanent facility opened on April 14, 2009. The Meadows Casino currently has over 1800 slot machines that have produced millions of dollars of revenue to the state. The Meadows Racetrack and Casino is owned by Las Vegas based Cannery Casino Resorts, LLC.

Because gaming is heavily regulated, casino operators are required to invest substantial resources to maintain, service and account for all slot machine activities. Additionally, casinos are required to provide significant amounts of security on the casino floor and premises. As such, the casinos are heavily monitored by security cameras and various personnel. Pursuant to Board regulations, all gaming activity must be subject to video surveillance and

recording. Casino security is used to maintain adherence to Board regulations and to prevent theft or other financial loss from the casino itself.

Casinos have long been the target of designing players. The earliest slot machines are said to have been developed in the 1890's. The first machines were crude mechanical devices that consisted of coin-in and coin-out slots with reels that spun by simple mechanics.

Over the years, as casinos became more sophisticated and prize amounts increased, criminals perfected their craft of defrauding machines to access the money contained in them, a crime commonly known as "slot cheating."

Slot manufacturers soon found themselves in a cat and mouse game with criminals. As technology advanced, computerized machines developed with sophisticated software aimed to eliminate fraud and thefts. Modern slot machine outcome, including payouts, are controlled by computer programming. However, even modern computerized games are vulnerable. As such, all slot machine activity is monitored and recorded electronically. Therefore, casinos have complete records of cash-in, cash-out, program changes and other activities associated with slot machines.

Although modern machine software is not as easily corrupted as their antique counterparts were mechanically, the modern machine is constructed and programmed by humans, thus making them nevertheless susceptible to designing persons armed with knowledge of the technology and programming involved.

In fact, various states have prosecuted individuals who used a technological advantage to affect the outcome of machine play and caused casinos to payout illegitimate jackpots. One modern example is Tommy Glenn Carmichael, one of the most successful slot cheats, who created the Monkey's Paw and the Light Wand, mechanical and electronic devices which falsely caused slot machines to trigger their payout mechanism to steal millions from casinos.

The Pennsylvania State Police, Gaming Enforcement Unit, is charged with investigating fraudulent activities at Pennsylvania casinos. While gaming in the state is relatively new, investigations into illegal and fraudulent activity on the part of casino players have commenced.

In June 2009, the state police unit assigned to the Meadows Casino was alerted to the prospect of several individuals working in tandem to obtain false winnings by the illegal and fraudulent manipulation of gaming devices and the scamming of casino personnel.

Also involved with an investigation was the Pennsylvania Gaming Control Board. On September 4, 2009, the Pennsylvania Gaming Control Board, Bureau of Gaming Operations received a request from the Executive Director to investigate information received from the Bureau of Casino Compliance that a patron of the Meadows Casino was forcing invalid jackpots to occur on slot machine number 750693. This machine is located at position number 10-11-06.

Following the Board and the state police investigations, the Office of District Attorney of Washington County was approached to assist in the

investigation and prosecution of the crimes at issue. The District Attorney is charged with the prosecution of offenses committed in the casino. Upon the District Attorney's presentation of a Notice of Submission of Investigation filed with the Court on September 18, 2009, this Grand Jury investigation commenced. This jury received reviewed and considered the testimony and evidence and the materials of the Board and State Police investigations. This Grand jury finds that probable cause exists to show the following criminal conduct occurred.

SUMMARY OF CRIMINAL ACTIVITY

This Grand Jury has investigated whether a group of actors did conspire together to cause a particular slot machine to malfunction by exploiting a glitch in the machine's software causing the machine to display a false jackpot. Finding the allegations to be the case, additionally, the jury finds that this group also caused casino personnel to payout in excess of \$400,000.00 dollars of fraudulently obtained money. The central figure of this scheme was Andre NESTOR, who worked in tandem with his accomplices Patrick LOUSHIL and Kerry LAVERDE to claim false wins.

NESTOR, who posed as a "high roller," frequented the casino and represented himself as a legitimate player, gaining casino employee trust by giving sizable tips and being courteous to staff. He often recounted stories of his successful winnings in Las Vegas and on more than one occasion called himself a "professional gambler." The Casino considered NESTOR a high roller based on his deception, the substantial amount of wagers played and jackpots claimed.

NESTOR's ruse required the participation of other conspirators. Chiefly involved with the group was Kerry LAVERDE. LAVERDE, believed a longtime companion of NESTOR, is a former police officer with the Swissvale Borough Police in Allegheny County. Laverde posed as security for the seemingly wealthy NESTOR and wore a policeman's badge when dressed in plainclothes. Throughout his involvement with NESTOR, LAVERDE appeared with NESTOR at his side during game play and in interaction with casino personnel. LAVERDE was videoed by security with NESTOR consulting prior to claiming illegitimate jackpots and on several occasions carried substantial amounts of funds for him. LAVERDE even remarked to staff that NESTOR was secure with him, and on one occasion gestured as if he was carrying a concealed weapon, and stated that he could take care of NESTOR if needed.

Another figure essential to this scam was Patrick LOUSHIL. LOUSHIL's involvement was as an accomplice to the theft and fraud. Cell phone records and video surveillance reveal that LOUSHIL was intimately involved in the frauds perpetrated on casino personnel, particularly as it relates to the claiming of illegitimate jackpots. LOUSHIL was known to have claimed false jackpots for Nestor and collected a substantial amount of money on NESTOR's behalf; LOUSHIL even signed IRS W2-G forms evidencing his receipt of funds.

In short, the conspirators compromised the machine by exploiting a software defect or glitch to register and display a false jackpot. The conspirators then used their ruse to defraud the casino personnel to payout on the false jackpot registered on the machine's screen.

This grand jury continues to investigate whether other parties are involved. However, the grand jury makes specific findings as to NESTOR, LAVERDE and LOUSHIL. In support of the charges recommended by this jury, findings of fact follow:

FINDINGS OF FACT

On or about June 22, 2009 at approximately 1:35 A.M., two individuals later identified as Andre Michael NESTOR and Patrick LOUSHIL entered the Meadows Racetrack and Casino. Once inside, NESTOR and LOUSHIL approached a video slot machine, identified as machine number 750693 at location 10-11-06. This machine is otherwise known as a "Draw Poker" slot machine, manufactured by International Game Technology (IGT), and placed in the high limit area of the casino floor. This particular slot machine displays video representations of playing cards used for game play. The slot machine is programmed to offer multiple versions of draw poker games that can be played in various game formats and for three wager amounts.

Shortly after arrival, NESTOR inquired about the slot machine's "Double Up" feature to slot technician Daniel Joseph DOWNING, a Meadows Racetrack and Casino employee. Specifically, NESTOR asked DOWNING to activate the machine's "Double Up" feature, as it was deactivated at the time. DOWNING indicated to NESTOR that he would check the machine's settings to determine if he was able to activate this feature. NESTOR expressed to DOWNING that he would often have slot technicians change this option on slot machines in Las Vegas, Nevada. DOWNING then accessed the slot machine's programming

through video menus located on the device's monitor. Upon accessing the device's programming menu, DOWNING was unable to locate the "Double Up" feature in question. NESTOR then offered to show DOWNING the location of the feature on the machine's programming menu. DOWNING refused NESTOR direct contact with the machine, but allowed NESTOR to guide him through the menu screens. DOWNING then located the appropriate game specific menu which enabled the "Double Up" feature and activated it, per NESTOR'S request. DOWNING stated that NESTOR was insistent that DOWNING make the change to the machine and NESTOR even indicated to DOWNING that he could assist him in making the change.

DOWNING then contacted his supervisor, RJ FUNKHOUSER, to determine if he was permitted to change the "Double Up" feature on the slot machine. FUNKHOUSER indicated to DOWNING that he was not permitted to change the "Double Up" feature on the slot machine without the Pennsylvania Gaming Control Board's permission. FUNKHOUSER then told DOWNING to disable the "Double Up" feature, explaining to NESTOR that the Pennsylvania Gaming Board prohibited such a change. NESTOR insisted upon the activation of the "Double Up" feature. NESTOR'S insistence prompted Slot Manager Tracy MIHALEK to reiterate the prohibition; NESTOR then relented in his demands.

DOWNING then appeared to disable the "Double Up" feature, but neglected to save his programming change, resulting in the activation of the "Double Up" feature on the slot machine. DOWNING then closed the machine

and set it up for play. The casino employees on duty at the time did not notice the oversight and the machine was available and open for public play.

This action set the stage for the criminal activity that followed.

THE "SLOT CHEAT"

On or about June 22, 2009 at approximately 2:14 A.M., shortly after the "Double Up" feature was enabled at NESTOR's request on slot machine numbered 750693 at location 10-11-06 in the "High Limit" room, NESTOR received a "jackpot" of \$4,225.00 on the same slot machine. Upon notice of that jackpot, NESTOR was provided IRS Form W-2G which reflects receipt of gambling wages. However, on subsequent investigation it was determined that the jackpot was won without a legitimate play of the machine.

It was found that NESTOR hit the "cash out" button to trigger the jackpot without placing a legitimate wager. Subsequent investigation of NESTOR'S actions revealed that NESTOR used a complex series of button presses and screen changes to cause the slot machine to have an error in its programming. This resulted in the machine displaying a false jackpot on the video display. This false amount was not recorded within the machine's accounting records.

Over the course of the following two months, NESTOR continued to obtain fraudulent jackpots in the same manner. NESTOR was accompanied by Patrick B. LOUSHIL and Kerry Allan LAVERDE. Additionally, Patrick B. LOUSHIL was assisting NESTOR in avoiding income reporting requirements by claiming various fraudulent jackpots as his own, as evidenced by multiple IRS W-2G forms executed by LOUSHIL. A summary of all jackpots won by NESTOR and a

breakdown of dates and amounts won is attached to this presentment as Attachment "A."

THE RUSE CONTINUES

On August 28, 2009, NESTOR again causes the machine to falsely display an illegal jackpot in the amount of \$ 20,125.00. On this date, NESTOR is accompanied by Patrick LOUSHIL. LOUSHIL attempts to collect the jackpot. This comes to the attention of Agent Josh Hofrichter of the Pennsylvania Gaming Control Board who has observed the surveillance of the purported jackpot and knew that it was NESTOR not LOUSHIL who had been playing the machine. This jackpot was paid to NESTOR after he signed the appropriate W-2G form. Alerted, Agent HOFRICHTER then begins investigating NESTOR's past gambling activities at the casino. Agent HOFRICHTER learned an earlier jackpot that NESTOR hit that was paid to LOUSHIL in the amount of \$ 1,325.00.

On or about August 31, 2009, NESTOR enters the Meadows Casino and plays the same machine at location 10-11-06. He then caused the machine to register a fraudulent jackpot of \$2,350.00. As on past occasions, NESTOR attempts to collect this false jackpot from the casino staff. Unknown to NESTOR, Pennsylvania State Police officers were viewing his actions on video surveillance.

NESTOR is told by Casino staff and the Pennsylvania Gaming Control Board that the jackpot was unavailable due to the necessity of verifying the internal controls of the machine. NESTOR stated he needed to make a phone call and is observed leaving the casino in haste. Trooper Jamie CLARK and Corporal Paul MUMAU of the Pennsylvania State Police are notified of NESTOR's activities and join the investigation. Both of these Troopers are

assigned to the on-premises gaming unit of the Pennsylvania State Police. As such they are charged by law with criminal investigations of illegal activities that occur in licensed casinos such as the Meadows Racetrack and Casino.

The investigators recovered video surveillance tapes depicting the casino floor around machine # 10-11-06. These tapes centered on dates and times which the machine was compromised for false and illegitimate jackpots. Corporal MUMAU studied these tapes and discerned the different intentional and specific actions that NESTOR must perform to cause a false jackpot display on the screen. NESTOR caused the machine to display a false jackpot to which casino staff respond and pay NESTOR and/or LOUSHIL. It is clear from the video tapes that these jackpot amounts were not legitimately earned by NESTOR through wagering. These tapes also showed NESTOR concealed his activities from casino surveillance.

NESTOR was positively identified through casino records and video and staff identification. LOUSHIL likewise was identified by video, records and his signature on the W-2G forms signed in claiming NESTOR's false and illegitimate jackpots.

The investigation involved the cooperation of the Pennsylvania Gaming Control Board Laboratory. This laboratory is headed by Michael CRUZ who testified as to the workings of the slot machine and what NESTOR did specifically to compromise the machine.

As a result of this investigation, it was determined that NESTOR and his associates, LOUSHIL and LAVERDE caused the compromised machine at

location # 10-11-06 to pay out approximately \$ 429,945 on 61 occasions. These crimes occurred on 15 separate dates between June 22, 2009 and August 31, 2009.

CONCLUSION

Based on the evidence presented, this jury finds that NESTOR, LOUSHIL and LAVERDE engaged in the scheme described above over a period of fifteen days to defraud the Meadows Racetrack and Casino of approximately \$429,945.00, as illustrated in the Attachment to this Presentment.

Their actions are all against the laws and dignity of the Commonwealth.

RECOMMENDATION OF CHARGES

Based upon the evidence we have obtained and considered, which establishes a *prima facie* case, we the members of the First Investigating Grand Jury of Washington County, recommend that the District Attorney of Washington County or his designee, institute criminal proceedings against Andre Michael NESTOR, Patrick B. LOUSHIL, and Kerry Allan LAVERDE in connection with the above incidents. Specifically, we recommend that the District Attorney of Washington County or his designee charge Andre Michael NESTOR, Patrick B. LOUSHIL, and Kerry Allan LAVERDE with the following criminal offenses:

CHARGE ONE 18 PA.C.S. § 3921 THEFT BY UNLAWFUL TAKING (F3)

The First Investigating Grand Jury of Washington County charges that on or about June 22, 2009 and continuing until August 31, 2009, the Defendants,

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA

IN RE

NO. MD 368-09

THE FIRST INVESTIGATING
GRAND JURY
OF WASHINGTON COUNTY

INVESTIGATION NO. 1
PER NOTICE NO. 3

FINDINGS AND ORDER

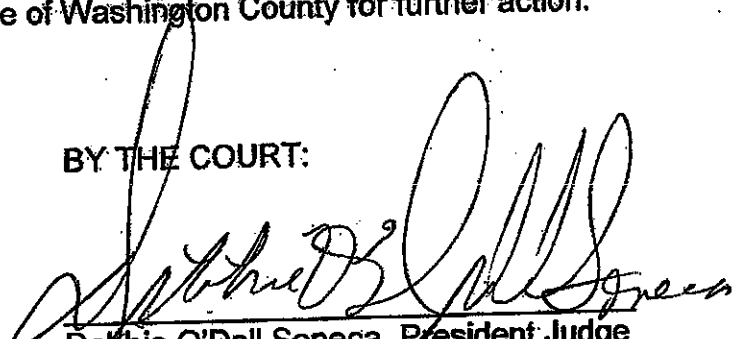
AND NOW, this 21st day of October, 2009, after having examined the Presentment concerning Investigation Number One, Notice One, of the First Investigating Grand Jury of Washington County, which recommended the arrest of **ANDRE NESTOR, PATRICK LOUSHIL and KERRY LAVERDE** charging them with the specific crimes and violations of state law as set forth below.

- Charge One: Theft by unlawful taking (Felony 3),
18 Pa.C.S. § 3921
- Charge Two: Theft by deception, 61 counts (Felony 3),
18 Pa.C.S. § 3922 (a), (b)
- Charge Three: Theft of property lost, mislaid or delivered by mistake,
61 counts (Felony 3), 18 Pa.C.S. § 3924
- Charge Four: Receiving stolen property, 61 counts (Felony 3),
18 Pa.C.S. § 3925
- Charge Five: Dealing in proceeds of unlawful activities, 60 counts
(Felony 1), 18 Pa.C.S. § 5111 (a) (1, 2 and 3)
- Charge Six: Unlawful use of a computer or other computer crimes,
61 counts, (Felony 3), 18 Pa.C.S. § 7611(a)(1)
- Charge Seven: Computer trespass, 61 counts (Felony 3),
18 Pa.C.S. § 7615 (2 and 4)
- Charge Eight: Criminal conspiracy, (Felony 1), 18 Pa.C.S. § 903

Charge Nine: Unsworn falsification to authorities, (Misdemeanor 2),
18 Pa.C.S. § 4904 as per LOUSHIL only

This Court finds that the Presentment is within the authority of the Grand Jury and is otherwise in accordance with the provisions of the Grand Jury Act. In view of these findings, the Court hereby accepts the Presentment and refers this matter to the District Attorney's Office of Washington County for further action.

BY THE COURT:



Debbie O'Dell Seneca, President Judge
Supervising Judge of the Grand Jury

10/2/09
Date