

The Wager, Vol. 8 - Editorial, Letters

January 14, 2003

The views expressed in this article are solely the views of the author and do not necessarily reflect the views of The WAGER, its sponsors, or affiliated organizations.

Table of Contents (click on the title to go to that page):

- * What the Gaming Industry can Learn from Yucca Mountain, by Marvin Karlins, Ph. D.
- * Editorial Response to Dr. Karlins by William Eadington, Ph.D.
- * Editorial Response to Dr. Karlins by Kevin Mullally.
- * Final editorial comments by Dr. Karlins.

What the Gaming Industry can Learn from Yucca Mountain

Marvin Karlins, Ph.D., Associate Editor, The Journal of Gambling Studies

Here is the sad news, folks: most things we enjoy come with a downside risk. Chocolates have calories, cigarettes have carcinogens, and, yes, nuclear power that gives us efficient, affordable energy generates nuclear waste. Which wouldn't be so bad if the U.S. government didn't want to deposit all that waste in Yucca Mountain: a destination so close to Las Vegas that some residents think they'll be glowing brighter than the Strip in a few short years.

This doesn't sit well with the local Chamber of Commerce. The idea of a hybrid Chernobyl and Three Mile Island located an hour from town is unlikely to spawn a massive influx of visitors; in fact, it might actually scare off tourists who are willing to risk their bankrolls but not their bodies in the Entertainment Capital of the World.

Naturally, the "movers and shakers" of Las Vegas are actively confronting the "Yucky Mountain" dilemma. Elected officials aren't putting their heads in the sand and pretending the problem doesn't exist or will simply go away. They don't want to live with the nuclear waste in their backyard so they are spending time, money and influence to get it shipped elsewhere.

If only the same could be said about their approach to another problem created by something many people enjoy: gambling. It seems that Las Vegas, the nation's premier gaming destination, is unwilling to deal with the downside risk of gambling which is, of course, pathological (or addictive) gambling. Even worse, Las Vegas (and other Nevada) casinos—working in concert with legislative and judicial support—are creating policies and implementing practices that actually exacerbate the plight of the problem gambler. This leaves us with the paradoxical condition whereby the most innovative gambling state in America has some of the most regressive and outdated approaches when it comes to handling and helping customers who are problem gamblers.

What can be done to change this unfortunate state of affairs? The following:

(1) Provide funding for problem gambling programs: During the most recent legislative session, political leaders rejected Nevada Senate Bill 335 which would have provided \$250,000 in public money to help fund problem gambling programs. Considering that many states with legalized gambling earmark funds to aid addicted players (e.g., Texas, 4 million; Minnesota, 2.6 million) one might wonder about Nevada's commitment to help problem gamblers or even ADMIT such people exist.

Writing in the Las Vegas Review Journal (June 13, 2001), columnist John L. Smith sums things up thusly: "The Legislature manages to embrace every idea, no matter how craven or boneheaded, presented by the gaming industry, but it can't recognize the problem of compulsive gambling in a casino culture. That \$250,000 was chump change, but to those afflicted it would have provided a beacon of hope in a desert of desperation. Its failure says more about the heart of Nevada than any statistic ever could."

(2) Reduce or eliminate money dispensing machines in and around the casino: Even the most casual visitor to a typical Vegas casino can't help but notice the large number of ATM and credit card cash dispensing machines spreading throughout the venue. They are the "life-blood" of the gaming establishment and guess who ends up on the giving end of the transfusion? The easy access to these money machines on the casino floor increases the probability that "steaming" gamblers will draw out additional funds they might not otherwise have tapped if access was more difficult.

Gaming establishments will not "...voluntarily remove ATMs from the casino floor

or dramatically change credit practices that invite players to swim into deep water,” acknowledges columnist Smith (LV Review Journal, Dec. 6, 2000). In fact, some casino owners are looking into technological innovations that would allow gamblers to get credit card cash advances directly from the slot machines they are playing. A bill currently under congressional consideration would limit the availability of credit granting machines in gaming establishments...but its passage remains far from certain.

(3) Extend casino credit in a responsible manner: The availability of casino credit encourages problem gamblers to overextend themselves and encounter serious financial problems they might otherwise have avoided. Just as a bartender is responsible for making sure he doesn't dispense drinks to patrons who shouldn't be served (e.g., underage or obviously intoxicated customers) so too should casinos extend credit in a responsible manner. Customers should not be granted more credit than they can reasonably be expected to repay (based on their assets and salary); further, customers should not be allowed to apply for and receive credit at several different casinos, if the total amount of credit granted is clearly in excess of what that customer could reasonably be expected to secure from other lenders (e.g., banks, credit card companies). This can be easily accomplished if the credit-granting gaming establishment is willing to make use of Casino Central Credit, a company which tracks player credit lines and action at casinos throughout Nevada.

What is truly a wonder is how casino credit granting policies have not been subject to more scrutiny and regulation. Veteran casino executives will readily admit—off the record—that gaming establishments will use casino credit to “stretch and break” players...encouraging them to spend more than they can afford in search of Lady Luck's elusive fortune. There is even a name given to problem gamblers who use casino credit in a vain attempt to win money or recoup losses: shooting stars. And, like shooting stars, most flame out after a brief, final plunge into the atmosphere of mounting debt.

(4)

Decriminalize non-payment of casino markers: When players “take out a marker” they are basically receiving a “loan” from the casino (given in gambling chips) which they are promising to pay back, normally within 30 days of signing the instrument. Most players think of a marker as a cash advance, like taking out money on a credit card or a similar money-lending source. What they don't realize

is that the casino doesn't see a marker that way at all! In the State of Nevada a "marker" is now a "check" and, if a player doesn't pay their debt in a timely fashion, he or she can be arrested on a "bad check" charge and face felony prosecution and serious jail time. No one is probably more aware of this possibility than one hapless gambler who flew into Miami on his way to Los Angeles and ended up with an unexpected layover: he was arrested, jailed for several days in Florida and then driven to Las Vegas in a prisoner van. The trip lasted two weeks! His crime? An unpaid marker to a Vegas casino. Several other arrests and incarcerations of non-paying gamblers led to accusations that Vegas casinos were no longer using the strong arm of the mob but, rather, the long arm of the law to collect on gambling debts. Las Vegas attorney Robert Langford observes: "This is the only business in the United States that gets to use the district attorney to collect their debts. People should be outraged."

To make matters worse, it seems that gamblers are being singled out for payment via threat of criminal prosecution while other "bad check" writers escape such treatment. When Nevada State Controller Kathy Augustine was charged in 2001 with recovering \$147.6 million in old debts owed the Nevada state government (bad checks not owed to the casinos) she didn't turn the names into the D.A.'s "bad check" unit for criminal prosecution but, rather, hired two out-of-state collection agencies to handle the delinquent accounts as a civil matter.

One attempt to force the decriminalization of casino markers has involved a petition to the Federal Trade Commission, using Section 5(a) of the FTC Act, which provides that 'unfair or deceptive acts or practices in or affecting commerce are declared unlawful' (15 U.S.C. Sec. 45(a) (1)). A copy of the petition can be found on the SCCCAM.com website.

(5) Provide individual gamblers the option of "selfexclusion" from the casino: Nevada is famous for its "black book" of individuals banned from casinos because of their "unsavory" character and damage they can do to the "integrity" of Nevada's gaming reputation. But what about gamblers who want to ban themselves from the casinos as the final way to stop their compulsive desires? Unfortunately, they are out of luck. The Nevada Gaming Control Board sees no reason to grant such a request. In fact, several states already have self-exclusion programs in place and in force. Even Atlantic City has such a program! For the addicted gambler who is willing to use such an option, getting on the "banned wagon" is possibly the most effective way to eliminate addictive casino wagering.

It is not the threat of being arrested for trespass that stops the self-excluded gamblers from returning to the casino but, rather, their knowledge that any winnings they might have accumulated will be confiscated. This happens most frequently when the player hits a slot jackpot for \$1,200 or more, requiring ID which identifies the gambler as a banned individual. Another advantage of self-exclusion is it keeps the gambler from establishing casino credit, as any application will require the patron's name (which can be easily computer checked against the list of self-excluded individuals).

The casino establishment's standard argument that it is "...too difficult to keep track of every excluded person who might walk into the casino..." is a non-issue. Yes, people who ban themselves from a casino can "sneak" in and play for small stakes... but a simple computer check can stop them from getting significant payouts and casino credit, two of the reasons problem gamblers frequent casinos in the first place.

The self-exclusion option is a wonderful response to critics who argue that people should be held responsible for their own actions. When individuals are willing to ban themselves from the casino, it is a step that should be applauded and encouraged by anyone who respects people who assume personal responsibility for their problems and take the necessary steps to overcome them. If casinos refuse to allow this form of self-control to be exercised it would seem that the real gambling problem rests no longer with the compulsive gambler but, rather, the greed of an industry that doesn't understand the concept of corporate responsibility.

Summing it up: Two things are certain: people aren't going to stop gambling and government isn't going to prohibit it. Prohibition didn't work with alcohol and it isn't going to work with the betting public, either. But there does need to be recognition that for some, gambling can be a serious addiction leading to financial ruin, interpersonal tragedy, even suicide.

The City of Las Vegas and its citizens can no longer afford to enjoy the positive benefits of gambling while ignoring the problems it creates... anymore than we can enjoy the benefits of nuclear power and turn a blind eye to the downside risks of nuclear waste. This is the lesson the gaming industry must learn from Yucca Mountain. Casinos need to be active partners in the battle against pathological gambling. If they choose to ignore the problem or make it worse then they might

well find themselves to be the Tobacco Industry of the 21st Century.

The WAGER is a public education project of the Division on Addictions at Harvard Medical School. It is funded, in part, by the National Center for Responsible Gaming, the Massachusetts Department of Public Health, the Addiction Technology Transfer Center of New England, the Substance Abuse and Mental Health Services Administration, and the Center for Substance Abuse Treatment.

EDITORIAL RESPONSE TO: “What the Gaming Industry Can Learn from Yucca Mountain”

by Marvin Karlins, Ph.d.

by William R. Eadington, Professor of Economics, Director, Institute for the Study of Gambling and Commercial Gaming, University of Nevada, Reno

It must be said that many of Dr. Karlins’ criticisms of Nevada’s casino industry and the State of Nevada have some merit. Prior to 1990, there was no recognition whatsoever from Nevada’s dominant industry that there even was such a thing as problem gambling.

Nonetheless, some progress has been made and continues to be made in providing both lip service and concrete actions in addressing this issue, even in the most capitalist and competitive of gaming jurisdictions in the world.

First, the excuses. Why has Nevada not addressed problem gambling in the past? Generally speaking, a gaming industry that caters to tourists rather than to its own citizens is not going to be as motivated to acknowledge and mitigate problem gambling as would gaming industries that have local residents as their primary customers. If customers are from foreign countries, the degree of self-identified casino responsibility would fall even more.

Second, in a competitive environment, there is a feeling that if one company acts responsibly and tries to deter problem gamblers from over-spending in their properties, such customers will just go down the street and lose their money to a competitor. Third, when casino gambling was illegal virtually everywhere outside of Nevada, the industry and the State carried a low self-image. Part of that self-image was that the casino industry did take money from fools and sick people. Because casino gaming has become more corporate, has been authorized in many new jurisdictions, and has become more widely accepted in society, the agendas

of many gaming companies now include a degree of corporate responsibility as part of their own enlightened self-interest. Thus, the current situation is in flux almost everywhere, and is moving in a more pro-active direction.

Now, the current situation. The late Nigel Kent-Lemon predicted in 1997 that the casino industry would go through various stages with regard to its attitudes toward problem gambling. The first stage is denial: a gaming company in denial would just as soon ignore the problem gambling issue in the hope that it would go away, or that no one else would notice it. The next stage is lip service. In this stage, the casino company acknowledges there is an issue and will undertake efforts to address problem gambling as long as it takes no money and no serious resources from the organization. This is the beginning of a public relations effort but often offers very little real help for problem gamblers.

Following that stage is the halfway house. In this stage, the company will allocate some resources to addressing the issue, but it is certainly not high on the agenda of important corporate issues that have to be addressed. There might be a director of responsible gambling appointed, but that person would not carry as much authority and clout as would, say, the directors of marketing, finance, strategic planning, or even human resource development. Though the company has acknowledged and has begun to address problem gambling as a strategic issue, it sees its efforts as peripheral to the broader—and more important—objectives of the company. The final stage is full commitment. This is the circumstance where the company is fully aware of problem gambling as a negative but real bi-product of its offerings, and does what it can, within reason, to mitigate the seriousness of this issue within its organization and its customer base.

I would suggest that most gaming companies in the world today are somewhere in between the lip service and halfway house stages. Furthermore, some have moved further toward full commitment than have others. If this were a horse race, the Nevada contingent would near the back of the pack, not too far from some other jurisdictions such as Mississippi, Atlantic City, and the United Kingdom. Those in the lead would probably be government owned casinos and perhaps tribal casinos: the characteristics of monopoly, transparency, and political pressure are all inducements to “do the right thing.” Nonetheless, almost all gaming jurisdictions are moving in the same direction, toward full commitment, but at varying speeds.

What about the specific comments that Dr. Karlins brings up? First, it is true that the State of Nevada has never allocated any money for problem gambling treatment or education, and only recently sponsored—for the first time ever—some research on the issue in the State. The bill that did not pass in 2001 legislature will probably be back in 2003, better structured and with a higher probability of success than its 2001 predecessor. One can only say, it's about time.

Nevada's gaming industry has taken an active role in supporting the Nevada Council on Problem Gambling, both financially and with respect to lending management to its various committees. This is a start which holds some promise.

With regard to ATMs, credit, and other "conveniences" offered to customers on the casino floor, the difficult trade-off from a business perspective is the incremental profitability from such offerings versus their possible contributory impact on problem gambling. One of the obvious problems is that there is no research—no scientific knowledge—that establishes a linkage between those practices and the severity of problem gambling. This is partly because problem gambling is such a difficult behavior to identify or to modify. Given casino companies in a competitive environment, providing lip service or a little more, and with no real evidence such actions will do any good anyway, this is a hard issue to sell in the corporate board room.

The issue of bad check prosecutions is trickier yet. No business wants to be defrauded, and some of the bad check situations that have arisen in Nevada are effectively that. There is no reason why a casino check should be treated differently than any other check—as a legal promise by the issuer to pay the recipient of the check the amount on its face. If a customer takes markers in a casino, they should be made aware of the legal obligations involved. If some of them happen to be problem gamblers, it is too bad, but this cannot be construed as an excuse to break the law.

As for self-exclusion, Nevada has not yet embraced the concept, and the jury is still out as to whether it is a good idea in many casino jurisdictions. There is still a degree of uncertainty as to where the liability lies when a casino—or its regulator—imposes a self-exclusion policy within their boundaries, and then a player or players sneak back in, lose large amounts of money, and do terrible things to themselves or others. Until those legal clouds pass, I would not expect

many gaming industries to fully embrace this concept.

Are Nevada casinos predatory? Yes, they are. Are there some Nevada practices that contribute to problem gambling that should be discontinued? Again the answer is yes; “paycheck spins” on pay days is one such example that comes to mind. Will Nevada casinos get better at addressing these issues? I believe they will. Will the State of Nevada step up to the plate in sponsoring treatment, education, and research on problem gambling. I believe they will, but Nevada is a conservative state that does not move quickly in many directions. This is one of those situations where one should not hold his breath.

Will Yucca Mountain become a depository for the country’s nuclear waste? Contrary to popular sentiment in Las Vegas, a betting man would say yes. The same betting man would also answer yes to the question: “Will the Nevada establishment become more responsible in addressing problem gambling in the years ahead?”

However, it never hurts to encourage the industry to do the right thing.

EDITORIAL RESPONSE TO: “What the Gaming Industry Can Learn from Yucca Mountain”

by Marvin Karlins, Ph.d.

by

Kevin P. Mullally

Executive Director, Missouri Gaming Commission President, Missouri Alliance to Curb Problem Gambling

Dr. Karlins provides an insightful and often entertaining commentary on Nevada’s disturbing failure to seriously address problem gambling issues. Nevada should be striving to be an international leader in problem gambling research and the development of innovative policies to prevent, deter and treat problem gambling.

Nevada’s inaction is not due to a lack of important supporters for progressive problem gambling policies. Carol O’Hare of the Nevada Council on Problem Gambling, the Nevada Resorts Association and scores of other key industry leaders have called upon the Nevada legislature to provide access to treatment for problem gamblers.¹

Still, with the level of influence of the gaming industry in Nevada, it is disturbing

that they were unable to persuade the legislature to act in 2001.² Karlins can legitimately doubt the commitment of the industry and trade groups given their lack of success in a state where they are unquestionably the most powerful political voice. However, a bill that would provide treatment alone falls short of the mark. As often noted by National Council on Problem Gambling Executive Director, Keith Whyte, “you do not make advances in the battle against any disease by treating only the casualties.”

The Nevada legislation should include funding for prevention and education programs as well as replacing its rather meager and inadequate self-limitation program with a comprehensive self-exclusion program. Furthermore, Nevada should make a commitment to become a leader in funding problem gambling research. Nevada benefits more from gambling activity than any other jurisdiction in the world. It is time for Nevada to accept a role in funding research projects to help advance the prevention and treatment of problem gambling.

While Karlins’ call for action is appropriate, several of his contentions are either overstated or provide an incomplete analysis. I am not familiar with the credit policies in Nevada, so I am not able to address those issues. Money Dispensing Machines (ATMs). The issue of banning ATMs has been floating around the country for many years. It is promoted as a simplistic method of cutting off access to “impulse” cash access for gamblers. Like many rudimentary solutions, it suffers under an analysis of its application. First, we must decide how far the ban extends. Can ATMs be located in the hotel area of the casino? What about the retail portion? To ban them from these areas seems silly and extreme. Yet to allow them does not achieve the intended purpose. Do advocates really believe that excited gamblers will decide not to use an ATM by increasing their walking distance by 100 or 200 feet or perhaps less? Such logic would contradict most of what we know about problem gambling.

ATM bans also face significant political problems. Consumers generally do not favor the legislation because it is inconvenient and they see it as a restriction on their freedom. Remember, about 95% of the population is able to gamble without adverse consequences; thus the overwhelming majority of the public is being unnecessarily inconvenienced under this specious theory. In addition, many cite public safety concerns if the ATMs are forced out into parking lots or off premises. Finally, banking interests strongly oppose the legislation fearing that it will lead to other restrictions on placement of machines or access to credit in

other areas of the economy.

A more palatable solution is the Self Transaction Exclusion Program (STEP), developed by the Missouri Riverboat Gaming Association in conjunction with the banking industry. This program, based on the general principles of casino self-exclusion programs, allows gamblers to exclude themselves from using cash access machines located in gaming areas. This is a more innovative, targeted and thoughtful proposal that should be a part of the Nevada legislation.

Self-Exclusion Programs. As the author of the first state-sponsored self-exclusion program, I echo Dr. Karlins' call for Nevada to join other progressive states that have provided this tool for problem gamblers. However, his contention that the threat of arrest for trespass is not a deterrent for problem gamblers in such programs is misguided. Our experience in administering a self-exclusion program in Missouri that has over 4,000 participants is that the threat of arrest is a significant deterrent for many problem gamblers. Most people want to obey the law and very few will deliberately and knowingly disobey it. For problem gamblers who agree to refrain from visiting a casino, the threat of trespass represents the difference between their conduct being "a little lie" and a "violation of law". While we are anxiously awaiting the commencement of a thorough study of the effectiveness of the provisions of Missouri's voluntary exclusion program, early anecdotal evidence indicates that providing the specter of a permanent criminal record is an important deterrent.

Summary. Nevada's lack of leadership in the area of problem gambling is disturbing. Nevada's failure to enact any meaningful legislation to assist problem gamblers is a disgrace. Industry leaders must join with problem gambling advocates to remedy this situation. While his reasoning is at times faulty or overzealous, Dr. Karlins' makes an appropriate battle cry. I hope I have added some thoughtful perspective to the debate.

Notes

1 "Professionals stunned at failure of Nevada problem-gambling bill", Las Vegas Sun Times, June 6, 2001.

2 The Nevada legislature meets once every two years for 120 days. Its next session begins February 3, 2003.

Karlins Response to the Reviews of Kevin Mullally and William Eadington

The reviews of Mullally and Eadington were welcome additions to my own comments and greatly appreciated. Before I comment briefly on each review, I would like to emphasize “points of commonality” shared by all of us; agreements which, I contend, lends additional credibility to our beliefs.

(1) Nevada, as America’s premier gaming destination, must take a stronger lead in dealing with the issues of pathological gambling. I speak of the “paradoxical condition whereby the most innovative gambling state in America has some of the most regressive and outdated approaches when it comes to handling and helping customers who are problem gamblers.” Kevin Mullally states that “...Nevada should be striving to be an international leader in problem gambling research and the development of innovative policies to prevent, deter and treat problem gambling.” He notes that “Nevada’s lack of leadership in the area of problem gambling is disturbing... [and its] failure to enact any meaningful legislation to assist problem gamblers is a disgrace. Industry leaders must join with problem gambling advocates to remedy this situation.” William Eadington points out that “...prior to 1990, there was no recognition whatsoever from Nevada’s dominant industry that there even was such a thing as problem gambling.” He goes on to use the metaphor of a horse race to describe the leadership position of various casino destinations in regards to problem gambling—and indicates that “...the Nevada contingent would near the back of the pack, not too far from some other jurisdictions such as Mississippi, Atlantic City and the United Kingdom.”

Obviously, the State of Nevada needs to, in Eadington’s words, take the lead in committing itself to full awareness “...of problem gambling as a negative but real bi-product of its offerings, and does what it can, within reason, to mitigate the seriousness of this issue within its organization and its customer base.”

(2) Nevada should provide funding to help offset the personal, family and societal costs associated with gambling. Dr. Ray Gangarosa has coined the term “noxonomy” to refer to an economy based on harm. Gambling creates harm. Earl Grinols and John Kindt calculate that for every \$1 a state receives in gaming revenues, it costs the state at least \$2 in increased criminal-justice, social-welfare and other expenses. Therefore I recommend that Nevada “provide funding for problem gambling programs” to help offset and, hopefully, reduce these costs. Kevin Mullally agrees, chastises the Nevada gaming industry for its inability to

persuade the legislature to provide funds for problem gambling programs and claims that "...The Nevada legislation should include funding for prevention and education programs..." William Eadington echoes these concerns: "...the state of Nevada has never allocated any money for problem gambling treatment or education, and only recently sponsored—for the first time ever—some research on the issue in the State. The bill that did not pass in 2001 legislature will probably be back in 2003, better structured and with a higher probability of success than its 2001 predecessor. One can only say, it's about time."

(3) Casinos should not employ procedures that encourage the development and/or practice of pathological gambling. In my article I discuss the dangers of money dispensing machines on or near the casino floor, casino credit policies and lack of self-exclusion programs as three Nevada practices that actually exacerbate the plight of the problem gambler. Kevin Mullally joins me in strongly recommending a self-exclusion program for gamblers and points with justifiable pride to his authorship of the first state-sponsored self-exclusion program in the country. He also agrees with my argument to limit money dispensing machines, but only to those gamblers who voluntarily exclude themselves from using such devices. William Eadington is not ready to support self-exclusion until certain legal issues are resolved, yet, he too recognizes that Nevada casinos contribute to pathological gambling. In his words: "Are Nevada casinos predatory? Yes, they are. Are there some Nevada practices that contribute to problem gambling that should be discontinued? Again the answer is yes; 'paycheck spins' on pay days is one such example that comes to mind. Will Nevada casinos get better at addressing these issues? I believe they will....but Nevada is a conservative state that does not move quickly in many directions. This is one of those situations where one should not hold his breath."

Having stated "common grounds" between myself and my two reviewers, I would now like to comment on specific observations made by Professor Eadington and Executive Director Mullally.

Professor William Eadington, Professor of Economics UNR, And Director, Institute for the Study of Gambling and Commercial Gaming

Considering that Dr. Eadington works and lives in Nevada, I believe his comments were not only forthright and honest, they were also courageous. After reading his

review several times I come away with the sense that here is a man who realizes that the casino industry is not doing enough to meet its responsibility to the public yet hopes and believes that things will get better. It is a sobering review that should remind us the casino industry will not become “problem-gambler-friendly” with ease, particularly in a State which is so heavily dependent on gaming revenue for its livelihood. Dr. Eadington believes that a betting man would answer yes to the question: “Will the Nevada establishment become more responsible in addressing problem gambling in the years ahead?” I hope he is right. Best of all, I like his closing observation: “...It never hurts to encourage the [gaming] industry to do the right thing.”

Having given Dr. Eadington credit for his overall sincerity, I still must take issue with two points he raises.

(1)**Self-exclusion:** Professor Eadington points out that Nevada has not yet embraced the concept and justifies the decision on legal grounds: “There is still a degree of uncertainty as to where the liability lies when a casino—or its regulator—imposes a self-exclusion policy within their boundaries, and then a player or players sneak back in, lose large amounts of money, and do terrible things to themselves or others. Until those legal clouds pass, I would not expect many gaming industries to fully embrace this concept.” One way to limit this liability, of course, is to shift the enforcement focus from “trespass” issues to “financial” transactions: withholding winnings and denying casino credit to those who voluntarily ban themselves from gaming establishments. Under such an arrangement, individuals could enter or leave a casino at will, but if they tried to apply for casino credit, sign for a marker or collect a jackpot over \$1,200, they would not be allowed to get any money (winnings included!). Such a procedure—easily enforced by checking names in a computer database— would certainly discourage many compulsive gamblers from wagering in the first place, thus reducing the chances of “terrible” things happening (like the Michigan businessman who recently killed himself, his wife and children after running up \$225,000 in casino marker debt at a Vegas casino). If Professor Eadington really wants to worry about legal issues in this area, I would suspect that casino enticements that encourage problem gamblers to enter and use casinos would create more liability issues than casino rules which allow them self-exclusion from the premises. An ever-increasing number of gambling States are adopting self-exclusion policies and don’t seem overly concerned about potential legal consequences. I hope Nevada follows their progressive lead.

(2) **Bad check (“marker”) prosecution:** In my article I spent a significant amount of time discussing the dangers of casino credit, recommending that it be eliminated or extended in a responsible manner and that non-payment of casino markers be de-criminalized and treated just like any other civil debt. Reviewer Mullally chose not to examine this topic because “I am not familiar with the credit policies in Nevada, so I am not able to address those issues.” Professor Eadington devoted a paragraph to the topic and argued that: “No business wants to be defrauded, and some of the bad check situations that have arisen in Nevada are effectively that. There is no reason why a casino check should be treated differently than any other check [underlining mine]—as a legal promise by the issuer to pay the recipient of the check the amount on its face.”

In fact, there are numerous reasons why a casino check (“marker”) should be treated differently than any other check, including: (1) casino patrons are allowed up to 90 days to pay their “markers”, indicating that a marker differs in character from a personal check, which is usually immediately presented for payment. (2) Regular casino customers who have outstanding markers are routinely sent “statements” such as those sent by credit card and loan companies, requesting the balance owed on the marker. Receipt of such statements by a casino customer would indicate that the transaction was in the nature of a loan or extension of credit as no other type of consumer is sent a “statement” in lieu of tender of his personal check written to a business establishment. (When is the last time you wrote out a check to your local department store and then, three months later, received a statement from that store requesting you send them a check for the check you wrote 90 days earlier!) (3) Large denomination markers from some Vegas casinos may only be exchanged for gambling chips, while a personal check may be tendered for any type of goods, services or for cash. In fact, once a casino customer at certain Vegas casinos has signed a large denomination marker for gambling chips, he is prohibited from exchanging the chips for cash without gambling first. A true personal check would not be limited in such a way.

A petition is currently before the FTC arguing that the casino use of “markers” as “checks” constitutes unfair and deceptive trade practice pursuant to 15 U.S.C.

45(a)(1).

As a minimum courtesy to its customers, it would seem appropriate that the casino make it very clear that nonpayment of “markers” will be prosecuted as a criminal felony, a clarification which is hardly trumpeted in Nevada casinos. Dr.

Eadington recognizes this in his own review when he states: "If...customers take markers in a casino, they should be made aware of the legal obligations involved." Then he goes on to say: "If some of them happen to be problem gamblers, it is too bad, but this cannot be construed as an excuse to break the law."

If all bad check writers in Nevada were treated equally, then I would probably have to agree with Dr. Eadington's final sentence. Sadly, the reality is that "bad check" laws are **not** uniformly enforced in Nevada. As I pointed out in my article, while gamblers who do not pay their markers are often turned over to the Nevada District Attorney for criminal prosecution other Nevada residents are "let off easy" and turned over to out-of-state collection agencies for civil action.

Finally, one should keep in mind the many cases where Nevada gambling establishments use casino credit and markers ("checks") in a non-responsible manner: including promise of credit which is never given; illegal collection of markers; granting credit to customers who are in no condition to gamble (e.g., obviously drunk or disoriented); and granting of more credit than a customer can reasonably be expected to pay. There are currently several high profile lawsuits involving the use and misuse of credit and markers by casinos, one in which a Vegas player was recently awarded an \$8 million dollar verdict in Nevada Federal Court. As indicated in my article, it is my belief that unless casinos stop their predatory credit practices and criminal prosecution of unpaid markers that the gambling industry might well become the cigarette industry of the 21st Century.

Kevin Mullally Executive Director of the Missouri Gaming Commission

This man deserves great credit for developing the first state-sponsored self-exclusion program in the country. Getting on the "banned" wagon is one of the most effective weapons a compulsive gambler has in his battle against addiction. As I point out in my article: "The self-exclusion option is a wonderful response to critics who argue that people should be held responsible for their own actions. When individuals are willing to ban themselves from the casino, it is a step that should be applauded and encouraged by anyone who respects people who assume personal responsibility for their problems and take the necessary steps to overcome them. If casinos refuse to allow this form of self-control to be exercised it would seem that the real gambling problem rests no longer with the compulsive gambler but, rather, the greed of an industry that doesn't understand the concept of corporate responsibility."

In his review of my article Mr. Mullally points to this statement I made: "It is not the threat of being arrested for trespass that stops the self-excluded gamblers from returning to the casino but, rather, their knowledge that any winnings they might have accumulated will be confiscated." In response to this statement he claims: "[Karlins] contention that the threat of arrest for trespass is not a deterrent for problem gamblers in such programs is misguided." Mullally goes on to point out that threat of arrest is an effective deterrent. I must say that I agree with him and now recognize my statement was in error. The threat of arrest, along with the other deterrents I mention in my article, certainly can keep a gambler from entering the casino. I tend to emphasize the financial reasons why exclusion will keep the compulsive gambler from the tables, but I was wrong in ignoring the value of potential arrest as an effective technique for keeping addictive gamblers and casinos apart! Of course, like Mr. Mullally, I call upon Nevada "...to join other progressive states that have provided this tool for problem gamblers."

The WAGER is a public education project of the Division on Addictions at Harvard Medical School. It is funded, in part, by the National Center for Responsible Gaming, the Massachusetts Department of Public Health, the Addiction Technology Transfer Center of New England, the Substance Abuse and Mental Health Services Administration, and the Center for Substance Abuse Treatment.