



Wednesday, May 26, 2004

## Ad 'Crisis' Takes Center Stage at GIGSE

by Bradley Vallerius

"What advertisement crisis?" David Carruthers, CEO of BetonSports.com, asked during a spirited panel discussion on the topic of the current advertisement situation in the United States. "I plan to spend more on advertising this year than I did last year." He added, "We will succeed if everyone else does the same. It is everyone's job to do this."

Carruthers delivered an operational perspective of the so-called advertising crisis at the Global Interactive Gaming Summit & Expo in Toronto last week. His presentation immediately followed one by reputed gaming attorney Lawrence G. Walters. The two men drew a standing ovation from the audience at the close of the panel.

Walters, a frequent gaming conference speaker who specializes in gaming, advertising, and Internet law, summarized the history of I-gaming advertising in the United States, beginning with the Clinton Administration years, when online gambling was viewed as a victimless crime. He went on to examine the actions taken by U.S. Attorney Ray Gruendner and the validity of his threats to the industry. Both in his presentation last week and in several of his previous writings, Walters conveyed the opinion that the government's threats to file aiding and abetting charges against media outlets would have great trouble in holding up in court. After all, he said, there is no federal law prohibiting online gambling advertising, and there is no precedence for the use of aiding and abetting charges against traditional advertisers.

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Walters offered three possible reasons for why the Missouri grand jury has yet to bring a case against any parties in the industry, even though it issued the first wave of subpoenas over six months ago. "The first is that they are intentionally delaying in order to gauge the industry's response," he said.

Walters said the Justice Department, which wins 90 percent of high-profile cases, could very well be monitoring the industry--browsing articles and discussion boards to learn the industry's thinking--in an attempt to determine the viability of a case.

Another scenario, Walters suggested, is that the grand jury has decided not to indict. This situation is unlikely because the prosecutor can obtain an indictment in most situations. Still, such a scenario is possible if the jury has determined that it could not win a case. In any event, since the Justice Department's files remain sealed, there is no way to know whether such a scenario is true.

The final scenario, which Walters considers to be the most likely, is that the prosecutor never intended to pursue any charges against the industry. The government has already obtained substantial benefits from its warnings and subpoenas. Many major media outlets have dropped their I-gaming advertisements and the public is no longer getting the impression that Internet gambling is legal. This situation is what Walters called a "chilling effect," whereby the government is able to suppress free speech by threatening prosecution and huge sentences.

As he has done in the past, Walters again urged the industry to take collective action and to separate the government's scare tactics from reality. He recommended that parties seek a declaratory judgment as to the legality of the Justice Department's actions and suggested that the industry educate advertising agencies on the legality of the issues.

While Walters provided a legal perspective of the advertising crisis and possible ways to combat it, Carruthers followed by offering tactics to overcome the present obstacles.

"Punch above your weight," he said. "Make the advertisers push your product. Go to every supplier and tell them what you bring to the table." Even just one advertisement is significant, he explained.

"Negotiate," he added, and recommended offering indemnities and cash up front as well as making sure that money paid to advertisers does not come from U.S. bettors.

"Build in justification to every deal," he said.

Carruthers also suggested sending press releases and offering one's own unique wisdom on a topic. "We were in the New York Times today," he said. "Our traffic will go through the roof."

Through the entire presentation he exuded confidence that the Justice Department's hurdles can be overcome and that the industry will continue to flourish.

He concluded his presentation just as he started it.

"What Crisis?" Carruthers asked.