

March 29, 2007

MINISTRY OF PUBLIC INFRASTRUCTURE RENEWAL

6th Floor Mowat Block
900 Bay Street
Toronto, ON M7A 1L2

Attention: The Honourable Mr. David Caplan

Dear Sir:

**Re: Lottery Ticket Insider Wins & Subliminal Messages in Slots
Treyes v. OLGC**

We represent Joseph Treyes in his action against the Ontario Lottery and Gaming Corporation for both general and special damages arising from his pathological gambling. We took on the case out of an abundance of charity for Mr. Treyes, only to discover, *inter alia*, serious conflicts of interest and parasitic issues plaguing the entire gaming industry.

We enclose past articles on Mr. Treyes' nightmarish plight, which compelled us to try to help him. **See Tab 1 of the attached Book of Documents in support thereof.**

We were shocked to learn, from media publications, of your alleged denial of any knowledge on the matters relating to insider wins by retailers in response to questions by Mr. Howard Hampton. At the outset Sir, we submit that certainly the OLGC's Board was aware or must have been aware of the goings on in its own corporation. As such we remind you that the Province has several appointees on the Board of the OLGC, who report to you. **See tab 2 of the Book of Documents in support thereof.**

Therefore, we were compelled to write to you in connection with the above-noted matter.

Mr. Treyes (2006). A pathological gambler who lost his life's savings to gambling despite entering the OLGC's much touted "Responsible Gaming Program". Joe now lives in a long-term care facility. Is this any way to fund the Province's financial obligations?



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I. Background

We enclose a copy of our demonstrative motion record, filed in or about February 26, 2007, before the Superior Court of Justice in connection with Mr. Treyes' proceeding. **See Tab 3 of the Book of Documents in support thereof.**

The motion record details our client's former status as an engineer, the development of Parkinson's disease in 1992, and the subsequent development of pathological gambling in 1999 leading to both medical problems and heavy financial losses at the OLGC's gaming facilities.

The motion record details how, after electro-convulsive shock therapy, a residency program, and counseling, Mr. Treyes entered the OLGC's alleged "Responsible Gambling Program" through the self-exclusion process in or about September 2000.

The motion record further details that despite, *inter alia*, the terms of the "Self-exclusion Form" directing the OLGC to use its best efforts to deny Mr. Treyes entry, his serious illness, physical distinctions and gait problems (see photo above), the OLGC refused or failed to deny him entry. Indeed, the sheer number of attendances without apprehension is astonishing. Needless to say, he then suffered both medically and economically.

The motion record should give you a meaningful understanding of the very real catastrophes facing hundreds of thousands of citizens in Ontario due to pathological gambling, which is an admitted mental disorder. The OLGC profits from these very real people (see motion record) and there are significant social costs for our entire society in respect of family breakdown, health care, increased crime, suicide, etc. **See Tab 4 of the Book of Documents in support thereof.**

Mr. Marin's finding that the Province is "addicted to gambling revenues"¹ is not surprising, given, amongst other things, the stated goals of the OLGC. By way of example, we direct you to the OLGC Board's mandate, as expressed on the OLGC website: "...to direct the Corporation's management with a view to **optimizing the overall performance and increasing shareholder value...**"

By way of further example, we direct you to an OLGC job advert, dated February 2, 2006, for the Slots Manager position at an OLGC facility. In the section entitled "Major Responsibility Areas", the first responsibility listed is to: "Perform slot analysis and plan slot projects to *optimize revenue.*" The term "Responsible Gaming" does not even appear in the advert. **See Tab 5 of the Book of Documents in support thereof.**

II. The Insider Report of 2005

In the year 2005, you were Minister of Public Infrastructure Renewal (to whom the OLGC reports). In March of that year, Stanley Sadinsky QC, former Chair of the OLGC, and provincial

¹ Andre Marin, "A Game of Trust" Ombudsman Report, March 2007 ("Marin Trust"), page 1. Available online at: www.ombudsman.on.ca/whatsnew.aspx?langID=1

advisor, released a report reviewing both problem gambling and responsible gaming strategy (the "Insider Report").²

The Insider Report noted the OLGC's apparent oversight of unlicensed retailers selling lottery tickets for the OLGC (i.e. conflict of interest) and the high likelihood of electronic gaming machine's product designs contributing toward higher levels of plays.³ The concerns in the Insider Report were prophetic. Exactly two years later vigilant journalists uncovered unscrupulous retailers, astounding insider lottery ticket wins, and subliminal messages in some slots, which defied mathematical odds.

The Insider Report made seventy-two (72) recommendations. Recommendations 51, 52, and 59, in relevant part, provided as follows⁴:

51. *All lottery-ticket agents should be licensed by the Commission.*
52. *A training program for lottery-ticket agents should be developed and approved by the Commission. Participation in a program should be a requisite of licensing of lottery-ticket agents, and it should be delivered by a stakeholder to be determined by the Commission.*
59. *The Commission should determine through directed research whether electronic gaming machines are designed to encourage unsafe and addictive behavior and, if so, it should remove such features of the machines. In addition, the Commission should determine whether the design of such machines contains features that misled the player as to his or her chances of winning or controlling play.*

Certainly, Sir, you were aware or should have been aware of the Insider Report made public years ago, the foregoing recommendations and the prophetic concerns thereto.

Did you not inquire from the OLGC Board, management or staff as to the details giving rise to Mr. Sadinsky's concerns? Certainly, we did not have to wait for more victims or read Mr. Marin's findings to understand that the OLGC was "hopelessly conflicted."⁵ Yet, to our knowledge, no steps were taken to address Mr. Sadinsky's recommendations.

The result is an ongoing spate of problems including but not limited the lottery-ticket insider wins, the subliminal messages in slots, and increased problem gambling.

² Stanley Sadinsky QC, *Review of the Problem Gambling-Gambling and Responsible-Gaming Strategy of the Government of Ontario*, Report to the Ontario Ministry of Health and Long-term Care and the Ministry of Economic Development and Trade, March 2005 ("Insider Report"). Available online at: www.health.gov.on.ca/english/public/pub/ministry_reports/gambling_05/sadinsky.html

³ Insider Report at pages 184 and 193.

⁴ See Insider Report. We have concerns with the adequacy of the analysis and recommendations in the Insider Report, but it should have at minimum alerted the Province/OLGC to the problems and triggered corrective steps.

⁵ Marin Trust at note 1, at page 6.

III. Classic Conflicts of Interest

One root to the problems arising from the OLGs business is the diffuse conflicts of interest, which requires urgent attention. By example, the Province cannot supply gaming to the public through an agent or otherwise, take the lion's share of the profits from such supply, and then attempt to manage the supply effectively, (under the label of "Responsible Gambling" or otherwise) for the public interest in a substantial regulatory vacuum. By example, there are no prohibitions on insider wins, no licensing of retailers, any regulated self-exclusion program or mandatory enforcement thereof.

A first year law student could tell you this is a classic conflict of interest. Moreover, simply because the obscene profits from gaming are applied to discharge the Province financial obligations, (e.g. health care) cannot excuse or justify victimization of the elderly, the ill or the feeble.

Over 2500 years ago, Aesop wrote a fable for children called "**The Trees and the Axe.**" In the fable, the strong, grown trees sacrificed a homely ash to the woodcutter's request for an axe handle. The ash was considered insignificant by the strong. Later however, the woodcutter returned to chop down the strong trees with an axe fashioned out of the homely ash. The moral: "**The betrayal of our friends may result in our own downfall.**" See Tab 6 of the Book of Documents for the short fable and illustration.

In accordance with Aesop's wisdom, we respectfully submit, Sir that taking from "Peter to pay Paul" does not work when Peter and Paul live in the same society. What Aesop's declared thousands' of years ago was proven recently by network science: we are all linked and when Peter is hurt we are all hurt, Sir.

Yours truly,

FANCY BARRISTERS, P.C.

Hassan Fancy

c.c. NDP: Mr. Howard Hampton
PC: Mr. John Tory
National Post: Tom Blackwell
Ombudsman Ontario: Mr. André Marin
fifth estate: Gillian Findlay
Viva Consulting: Sol Boxenbaum
Globe & Mail: Karen Howlett
Gambling Watch Ontario: Brian Yealland
CFRB: Mark Elliot
The Toronto Star: Tracy Tyler