

FILED  
ASHEVILLE, N.C.

DEC 11 2007

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

U.S. DISTRICT COURT  
W. DIST. OF N.C.

UNITED STATES OF AMERICA )  
)  
vs. )  
)  
1) JACK WILLIS SHEPHERD, )  
also known as Jackie Shepherd )  
)  
)  
)  
)  
)  
7) WESTERN AMUSEMENT, INC. )

DOCKET NO. 1:07CR 123

BILL OF INDICTMENT

Violations: 18 U.S.C. § 371  
18 U.S.C. § 1955  
18 U.S.C. § 2

THE GRAND JURY CHARGES:

Introduction

1. Beginning by on or about October 1, 2000, and continuing through on or about June 28, 2007, WESTERN AMUSEMENT, INC., and its owners, employees, and other persons operating with WESTERN AMUSEMENT, INC., conspired to conduct an illegal gambling business in the Western District of North Carolina by making cash payouts on video poker machines in violation of the laws of the State of North Carolina.

North Carolina's Laws Regulating Video Poker Machines

2. The North Carolina General Assembly enacted laws, effective October 1, 2000, that banned any video gaming machines, including video poker machines, that were not already in operation in North Carolina by June 30, 2000. N.C.G.S. 14-306.1(a).

3. The 2000 law made it a criminal offense to make any cash payouts whatsoever, regardless of amount, based on the operation of a video gaming machine (sometimes referred to hereafter as simply "machine" or "machines"). The greatest prize that could legally be won was a coupon that could be exchanged for prizes or merchandise with a value not exceeding \$10.00. N.C.G.S. 14-306(b)(2).

4. Every video gaming machine had to be registered with the sheriff of the county where the machine owner wished to place it in operation, and each lawfully registered machine had to bear an official registration sticker provided by the sheriff. N.C.G.S. 14-306.1(i).

Western Amusement, Inc.

5. WESTERN AMUSEMENT, INC., (hereinafter "WESTERN") was a North Carolina corporation owned by JACK WILLIS SHEPHERD, also known as Jackie Shepherd.

also had an ownership interest in WESTERN and were partners of JACK WILLIS SHEPHERD. WESTERN had its main office in Weaverville, in the Western District of North Carolina.

6. During the period relevant to this indictment, WESTERN owned at least 41 video poker machines, located at businesses in Buncombe and Madison Counties. Some of these businesses were owned by JACK WILLIS SHEPHERD, either directly or through various corporate entities. Others among these businesses were owned by third parties, who entered into agreements with the defendants to allow the machines to be operated at their stores, with the store owners and the defendants splitting the profits from the machines.

7. At more than ten of these locations, the operators made illegal cash payouts to persons who had played and won on the machines. The defendants knew that these machines were being used for illegal gambling purposes, facilitated such illegal activity, and profited from it.

8. \_\_\_\_\_, a WESTERN employee, would regularly visit the stores to check the machines and to collect WESTERN's share of the profits. This was called a "checkup." \_\_\_\_\_ would usually take readings from the machines, total the cash in and cash out for all the machines for the checkup period, and calculate the net profit to be divided between the store owner and WESTERN. Sometimes people won a jackpot at a store with WESTERN's machines and the store operator did not have enough cash to pay the winner, in which event \_\_\_\_\_ or JACK WILLIS SHEPHERD would bring cash to the store to make the payout.

9. Occasionally \_\_\_\_\_ would also perform checkups at the WESTERN locations in Buncombe County.

10. \_\_\_\_\_ and \_\_\_\_\_ assisted in operating the Cherokee Trading Post, 837 Old Mars Hill Highway, Weaverville, North Carolina, which was one of the locations at which WESTERN had machines. At that location they made illegal cash payouts to gambling winners.

11. On or about April 2, 2007, \_\_\_\_\_ paid cash at the Cherokee Trading Post to a person who had won on a WESTERN machine at 75 Reems Creek Road.

12. On or about April 5, 2007, \_\_\_\_\_ paid cash at the Cherokee Trading Post to a person who had won on a WESTERN machine at another location in Buncombe County.

13. On or about April 16, 2007, at the Cherokee Trading Post, paid cash to a person who had won on WESTERN machines at the Cherokee Trading Post and two other stores in Buncombe County.

14. On or about April 18, 2007, at the Cherokee Trading Post, paid cash to a person who had won on WESTERN machines at two other stores in Buncombe County and one store in Madison County. He only paid this cash out after asking for and receiving permission to do so from JACK WILLIS SHEPHERD, who was present at the time.

15. At several of the stores with WESTERN machines, people who had won were directed by the store operators to go to see JACK WILLIS SHEPHERD in order to get paid.

**COUNT ONE**  
**(CONSPIRACY TO CONDUCT AN ILLEGAL GAMBLING BUSINESS)**

16. Paragraphs 1 through 15 are realleged and incorporated herein.

17. From a date on or about October 1, 2000, the exact date being unknown to the Grand Jury, through on or about June 28, 2007, in Buncombe and Madison Counties, within the Western District of North Carolina, and elsewhere, the defendants,

1) JACK WILLIS SHEPHERD,  
also known as Jackie Shepherd,

and

7) WESTERN AMUSEMENT, INC.,

knowingly and willfully combined, conspired, confederated and agreed with one another, and with other persons known and unknown to the Grand Jury, to commit certain offenses against the United States, namely: to conduct, finance, manage, supervise and direct an illegal gambling business, said illegal gambling business involving the operation of video poker machines in violation of the laws of the State of North Carolina, in which state said business was conducted; which illegal gambling business involved, during the period aforesaid, five or more persons who conducted, financed, managed, supervised, directed and owned all or a part thereof; and which gambling business remained in substantially continuous operation for a period in excess of thirty days, and had a gross revenue of \$2,000 or more in any single day, all in violation of Title 18, United States Code, Section 1955.

Overt Acts

18. In furtherance of this conspiracy, and in order to effect the object thereof, the defendants did commit the acts set forth in Paragraphs 5 through 15 of this Indictment, among others.

Object of the Conspiracy

19. It was the object of the conspiracy that the co-conspirators would obtain cash through the illegal operation of the video poker machines for gambling purposes.

All in violation of Title 18, United States Code, Section 371.

**COUNT TWO (ILLEGAL GAMBLING BUSINESS)**

20. Paragraphs 1 through 15 are realleged and incorporated herein.

21. From a date on or about October 1, 2000, the exact date being unknown to the Grand Jury, through on or about June 28, 2007, in Buncombe and Madison Counties, within the Western District of North Carolina, and elsewhere, the defendants,

1) JACK WILLIS SHEPHERD,  
also known as Jackie Shepherd,

and

7) WESTERN AMUSEMENT, INC.,

did knowingly and willfully conduct, finance, manage, supervise and direct an illegal gambling business, said illegal gambling business involving the operation of video poker machines in violation of the laws of the State of North Carolina, in which state said business was conducted; which illegal gambling business involved, during the period aforesaid, five or more persons who conducted, financed, managed, supervised, directed and owned all or a part thereof; and which gambling business remained in substantially continuous operation for a period in excess of thirty days, and had a gross revenue of \$2,000 or more in any single day, and did aid and abet each other in such offense.

All in violation of Title 18, United States Code, Sections 1955 and 2.

**NOTICE OF FORFEITURE AND FINDING OF PROBABLE CAUSE**

22. Notice is hereby given of the provisions of 18 U.S.C. § 982 and 28 U.S.C. § 2461(c). Under §2461(c), criminal forfeiture is applicable to any offenses for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981, 18 U.S.C. § 1955, and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by § 981(a)(1)(c). The defendants

1) JACK WILLIS SHEPHERD,  
also known as Jackie Shepherd,

and

7) WESTERN AMUSEMENT, INC.,

have or had a possessory or legal interest in the following property that is subject to forfeiture in accordance with § 982 and/or § 2461(c):

- (a) all property involved in the violations alleged in this bill of indictment;
- (b) all property which is proceeds of such violations; and,
- (c) in the event that any property described in (a) or (b) cannot be located or recovered or has been substantially diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendant, to the extent of the value of the property described in (a) and (b).

23. The Grand Jury finds probable cause to believe that the following property is subject to forfeiture on one or more of the grounds stated above:

- (1) All currency and monetary instruments which were received during, involved in or used or intended to be used to facilitate the crimes alleged in this bill of indictment, including but not limited to the following:
  - a) the sum of approximately \$186,755 in proceeds received between January 2001 and December 2006; and
  - b) the sum of approximately \$33,053 in proceeds, seized on or about June 28, 2007.

(2) All title and interest in the following real property, in that such property was involved in the aforesated offenses or is traceable to such property:

a) Property located at 837 Old Mars Hill Highway, Weaverville, North Carolina, and found in Buncombe County Deed Book 2975, Page 0708 and Deed Book 3002, Page 0101.

b) Property located at 120 Sams Road, Weaverville, North Carolina, and found in Buncombe County Deed Book 4468, Page 0917.

c) Property located at 120 Sams Road, Weaverville, North Carolina, identified in Madison County Tax Records as Parcel PIN Number 9745-49-6230.

d) Property located at 75 Reems Creek Road, Weaverville, North Carolina, and found in Buncombe County Deed Book 4070, Page 0070.

e) Property known as Billy Jack's Flea Market, located on Highway 23 North in Madison County, North Carolina, and found in Madison County Deed Book 279, Page 49.

(3) All title and interest in the following motor vehicles:

a) 2005 Chevrolet Silverado pickup truck, VIN 2GCEK19B451295979, North Carolina tag TWB-8444.


b) 2006 Dodge Ram pickup truck, VIN 1D7KS28C36J214177, North Carolina tag BV-1209.

(3) All title and interest in the 25 video poker machines seized in Buncombe and Madison Counties during the execution of federal search warrants on or about June 28, 2007.

A TRUE BILL

  
FOREMAN

GRETCHEN C.F. SHAPPERT  
UNITED STATES ATTORNEY

  
RICHARD LEE EDWARDS  
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ASSISTANT UNITED STATES ATTORNEYS