

MAR 7 2008

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

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

UNITED STATES OF AMERICA

vs.

JACK W. SHEPHERD

DOCKET NO. 1:07 CR 123-01-TSE

STATEMENT OF FACTS

Were this matter to go to trial, the United States of America would prove the following facts beyond a reasonable doubt:

1. Between on or about October 1, 2000, and June 28, 2007, in Buncombe and Madison Counties within the Western District of North Carolina, the defendant JACK W. SHEPHERD knowingly and willfully conducted, financed, managed, supervised and directed 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 in excess of \$2,000 in any single day, all in violation of Title 18, United States Code, Section 1955.

2. This Statement of Facts does not contain each and every fact known to the defendant and to the United States concerning the defendant's or others' involvement in the charges set forth in the plea agreement.

3. During the relevant period, the defendant was an owner of a company known as Western Amusement, through which he owned numerous video poker machines which he operated at various locations in Buncombe County and in at least one location in Madison County. Some of these machines were in operation at retail businesses or other locations owned by the defendant, while other machines were located at businesses owned and operated by other persons. These video poker machines were used, as the defendant knew, for illegal gambling purposes. That is, employees of the

defendant who worked at the locations owned by the defendant made cash payouts from time to time to persons who had won on those machines. The store owners and their employees at the locations not owned by the defendant would either make cash payouts or would direct the winners to take their payout ticket to the defendant's business in Buncombe County known as the Cherokee Trading Post, where one of the defendant's employees would make the payout.

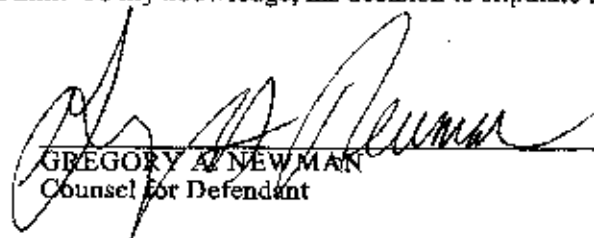
4. A Western Amusement employee generally came from South Carolina once a week to perform "checkups" and maintenance on the machines. A "checkup" consisted of visiting the store, examining the machines, taking readings of the amount of cash in, cash out, and net profit for each machine since the last checkup, and dividing the profits with the store owners if the machines were in operation at locations not owned by the defendant.

5. The defendant knew during this relevant time period that he, as well as some of his employees and the store owners, were involved in violations of the gambling laws of the State of North Carolina, he knew that five or more persons were involved in conducting, financing, managing, supervising, or directing the illegal gambling business, and he knew that the illegal gambling business was in substantially continuous operation for a period of more than thirty days.

Defendant's Signature: After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, JACK W. SHEPHERD, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.


JACK W. SHEPHERD
Defendant

Defense Counsel's Signature: I am the attorney for JACK W. SHEPHERD. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.


GREGORY A. NEWMAN
Counsel for Defendant