



September 11, 2009

In the Matter of Tokwiro Enterprises ENRG, Carrying on Business as Ultimate Bet Investigation Regarding Complaints of Cheating

DECISION

The Kahnawake Gaming Commission (the “Commission”) is a regulatory body established and empowered under the *Kahnawake Gaming Law* (the “Law”). The Commission licenses and regulates interactive gaming and gaming-related activities that are conducted within and from the Mohawk Territory of Kahnawake in accordance with the provisions of the Law and the Commission’s *Regulations concerning Interactive Gaming* (the “Regulations”).

As a regulator, the Commission has a mandate to investigate allegations of any breaches of its Regulations and, if it finds that breaches have occurred, to sanction those responsible. The sanctions available to the Commission are: (a) imposing monetary fines; and (b) amending, suspending or revoking a permit that was previously issued by the Commission.

The Commission has no authority to determine criminal culpability or civil liability. Such matters are within the purview of law enforcement agencies and, ultimately, courts of competent jurisdiction. However, as a responsible public body, when it becomes aware of conduct that transcends a breach of its Regulations and that may constitute criminal behaviour, the Commission will alert and cooperate with the appropriate authorities. As will be discussed further herein, this has been one such case.

OVERVIEW

Early in January 2008, the Commission first received complaints of potential cheating incidences involving the online poker website carrying on business as “Ultimate Bet”¹. Since that time, the Commission has conducted a lengthy and complex investigation into these complaints.

In September 2008, based on its findings to that time, the Commission issued an interim decision imposing both monetary sanctions and operational conditions on Tokwiro Enterprises ENRG (“Tokwiro”), the current owner of Ultimate Bet. Among other things,

¹ In this Decision, “Ultimate Bet” and “UB” both mean the online gaming site known as “Ultimate Bet”, located on the internet at www.ultimatebet.com

Tokwiro was required to show within a stated period of time why its Client Provider Authorisation (“CPA”)² should not be revoked.

Based on information provided by Tokwiro and the reports of its own investigators and agents, the Commission has decided that Tokwiro has met the conditions imposed on it and has satisfied the obligation of showing why its CPA should not be revoked.

Accordingly, the Commission hereby directs that the CPA issued to Tokwiro will not be revoked but rather will be continued, subject to the additional conditions of licensure set out herein.

FINDINGS

On the basis of the investigative reports, audits and other information provided to it over the past 12 months, the Commission has made a number of factual findings, the most significant of which are as follows:

1. Between June 2003 and December 2007, cheating occurred on the UB site whereby players’ rights to a fair and honest game were violated;
2. The cheating was initiated by one or more individuals associated with UB prior to Tokwiro having acquired its ownership interest in UB;
3. The individuals responsible for the cheating no longer have any association with UB and are not associated with Tokwiro in any manner;
4. The cheating resulted from certain individuals manipulating the software then being used by UB’s prior ownership and said manipulation was possible due to deficiencies in the control systems that were created, implemented and/or used by UB’s prior ownership;
5. UB’s present owner, Tokwiro, was not aware of the deficiencies in the control system until after the cheating activity had already been initiated due to not having discovered the cheating during due diligence investigations prior to acquiring ownership of the UB operations; and
6. Tokwiro and its management have cooperated with the Commission to identify the individual(s) responsible for the cheating incidences and to ensure that all players victimized by the cheating activity were promptly and fully reimbursed.

In response to the specific conditions that UB was previously³ directed to meet, the Commission finds that:

² “Client Provide Authorisation” or “CPA” is the name of the permit issued by the Commission to online gaming operators in accordance with the provisions of the *Regulations concerning Interactive Gaming*. See in particular, sections 10 and 34 *et seq.* of the Regulations.

³ Summarized in a public statement issued by the Commission on September 29, 2008:
www.kahnawake.com/gamingcommission

1. No individual identified by the Commission as “unsuitable” is currently involved in any aspect of Tokwiro’s ownership, management and operations;
2. By February 2008, Tokwiro’s control systems had been extensively modified to: (a) remove the illicit software that facilitated the cheating incidences; and (b) prevent any further incidences of cheating or other improprieties;
3. Tokwiro has refunded US\$22,054,351.91 to players adversely affected by the cheating incidences. The process of refunding players was monitored by KPMG. This is the largest such reimbursement in the history of online or land-based gaming. The amount of refunds was calculated using a formula that gave every possible benefit of the doubt to affected players; and
4. Tokwiro has paid a fine in the amount of US\$1,500,000.00, plus the costs of the Commission’s investigation.

ADDITIONAL CONDITIONS OF LICENSURE

To ensure the honesty and integrity of the gaming conducted in the Mohawk Territory of Kahnawake; to assure players that the games offered by companies licensed by and under the control of the Commission are fair and honest; and to ensure that players will be paid any winnings, the Commission imposed the following additional conditions of licensure on Tokwiro or its successors, assigns, or transferees:

1. An appropriate agent of the Commission will conduct such testing of Tokwiro's control systems as the Commission deems necessary to affirm the suitability of Tokwiro’s control systems;
2. All procedures related to changes or upgrades to Tokwiro’s control system must meet or exceed industry best practices, as determined through a review conducted by an independent testing facility of the Commission’s choice and at Tokwiro’s expense;
3. For one year from the date of this Decision, Tokwiro must provide details of all daily operations, including financial and gaming records as required by the Commission or its designated agents, to ensure full disclosure, prevent any further unsuitable situations or wrongdoing, and assure the public that all games offered are fair and honest and that all player monies will be protected and all winnings paid;
4. Tokwiro must: (a) maintain and preserve primary and secondary web logs and game logs; (b) submit their procedures, programs and equipment for specific review by an independent testing facility of the Commission’s choice and at Tokwiro’s expense, to assure proper maintenance of all primary and secondary logs, including, but not limited to, web logs and game logs mandated by the Regulations; (c) ensure that automatic alerts for any failures in the maintenance of primary and secondary logs immediately be sent to the proper employees of Tokwiro and the Commission; and (d) ensure that a third server, containing

redundant web logs and game logs, be maintained at the offices of the Commission or at a facility within the Mohawk Territory of Kahnawake designated by the Commission;

5. Tokwiro must undertake a compliance policy update and review and submit an updated compliance plan and policies to the Commission for approval within 90 days of this Decision. The compliance policy must follow industry best practices to: (a) assist Tokwiro in assuring the Commission that third parties cannot compromise the integrity of Tokwiro's software platform; (b) assist Tokwiro in avoiding unsuitable situations or transactions with unsuitable persons; (c) assist Tokwiro's management in identifying areas of possible concern that might adversely affect Tokwiro's reputation or status as a holder of privileged gaming licenses and approvals; and (d) provide additional oversight of Tokwiro's compliance with laws, regulations, and special conditions imposed upon them pursuant to this Decision;
6. Within 30 days from the date of this Decision, Tokwiro must file an application for licensing of any person or entity associated with Tokwiro as an officer, director, key person or shareholder;
7. Within 30 days from any request by the Commission, Tokwiro must file an application for licensing of any other person or entity associated with Tokwiro and must terminate any relationship with any such party if that party fails to cooperate with Tokwiro in complying with the Commission's request;
8. In its sole discretion, the Commission may require that an application be filed by any person or entity having any beneficial interest in Tokwiro, whether nominally, through any intermediary or intermediaries, or by any other means; and
9. All applicants must complete the appropriate forms in full and make themselves available to be interviewed by the Commission or its agents, and Tokwiro will be responsible for all costs incurred in such process.

DETAILS OF THE ULTIMATE BET INVESTIGATION

Ultimate Bet Corporate History

Ultimate Bet has been licensed by the Commission since March 1, 2001. During the term of its licensure, there have been a number of changes in the ownership and control and therefore the licensure of UB.

On March 1, 2001, the Commission first licensed eWorld Holdings, Inc., an Antigua company, carrying on business as Ultimate Bet.

In 2004, Excapsa Software Inc. ("Excapsa") was established for the purpose of holding the rights of the software used by UB. The Commission has never licensed Excapsa. However, between 2004 and 2006 Excapsa had a significant business relationship with the

corporate entity that owned and operated UB (eWorld Holdings, Inc). For the remainder of this document, these companies will be referred to as the “eWorld Group.”

In 2006, Tokwiro acquired UB from the eWorld Holdings Group. In October 2006, the CPA for UB was issued to a subsidiary of Tokwiro Enterprises ENRG. Presently, the CPA is held directly by Tokwiro Enterprises ENRG, carrying on business as Ultimate Bet.

AWARENESS OF THE CHEATING

Early in January 2008, as a result of information provided by a person within the online poker community, the Commission became aware of potential cheating incidences involving UB – specifically with regard to an account using the user name “NioNio.” Shortly thereafter, Tokwiro senior management contacted the Commission to advise that cheating incidences appeared to have occurred on Ultimate Bet and to offer full cooperation in the Commission’s investigation of these incidences.

At that time, the cheating appeared to centre on the “NioNio” account. The person(s) responsible for this account was/were suspected of cheating by viewing the “hole” cards of other players. Speculation that the “NioNio” account had been used to cheat, was already circulating in various online web sites and blogs.

INITIAL INVESTIGATION

From January 2008 through July 2008, the Commission worked with Tokwiro to gather the facts and information relevant to the cheating incidences.

An initial review of the “NioNio” account revealed that its winning statistics were alarmingly improbable, and that a comprehensive investigation was required. The Commission immediately directed UB to backup all logs and data relevant to the “NioNio” and related accounts. The logs and data were to be provided to the Commission to ensure that a complete record of the suspicious activities was maintained and to avoid possible deletion of critical logs and data.

Independently, the Commission approved and reviewed a detailed analysis of the suspicious play of the “NioNio” account. The investigation of the “NioNio” account quickly expanded to include other accounts that demonstrated similarly anomalous win rates.

After several weeks of Commission investigation of the source code, a method was detected by which specific users could gain access to “hole” card data in real time. Once the cheating method was identified, the Commission’s agents confirmed through the audit process that:

1. The illicit software allowed only two accounts – AuditMonster1 and AuditMonster2 – to access hole card information;
2. These two accounts were able to access hole cards via the normal poker client;

3. The “stealth observer” function was located in the normal code base where the normal card messages were sent to the poker client; and
4. The illicit software was disabled on UB servers on February 2, 2008.

The Commission also confirmed that when Tokwiro acquired UB, it was only provided with source code history dating back to November 29, 2005. The source code history of the Ultimate Bet poker software showed that the illicit code was not modified after November 29, 2005. Attempts to obtain source code historical records from prior to November 29, 2005 from the original developers were unsuccessful.

ANATOMY OF THE CHEATING

The following is an overview of the methodologies used to perpetrate the cheating incidences, based on the information the Commission obtained during the course of its investigations:

1. The incidences of cheating began in June 2003 and continued until December 2007;
2. The ability to view hole cards was enabled by illicit software that was placed on the UB servers prior to November 2005;
3. To perpetrate the cheating, one or more individuals logged into the UB client software using an account that accessed the illicit software. The name of the account was “AuditMonster2.” An additional account (“AuditMonster1”) had the same privileges, but there is no evidence that this account was ever used;
4. The “AuditMonster2” account was used to view hole cards, but was never used to play in a game. Rather, the responsible individual(s) gathered hole card information using this account, and then employed a variety of other accounts to use the hole card information to cheat other players in actual money games; and
5. The user names of the player accounts maintained by the responsible individual(s) – see the list below – were changed repeatedly over the course of the cheating scheme in an apparent attempt to avoid detection.

CHEATING ACCOUNTS

The Commission determined the account numbers and usernames involved in the cheating through analysis of their association with IP addresses and computer devices used by the AuditMonster2 account. The Commission also identified cheating accounts through their involvement in a web of player-to-player transfers and anomalous winning statistics. These account numbers (UserID) and usernames (the “cheating accounts”) are provided in the following table:

UserID	Username
445519	63vette
445519	Bgroup
445519	FlipFlop2
445519	gravitation
445519	HeadKase01
445519	UTakeIt2
16054	FireNTexas
16054	FlatBroke33
16054	ilike2win
2833743	NioNio
2833743	NYMobser
1867358	LetsPatTTY
1867358	Eric456
1867358	RockStarLA
1867358	Stoned2Nite
1867358	WhackMe44
227061	GrabBag123
227061	NoPaddles
227061	nvtease
227061	Sleepless
3126267	monizzzle
3126267	whowherewhen
12955	dannyboy55
40018	Calluwin1
40018	newyearnewlif
40018	WPTwin1
40018	78suited
40018	Aruba2005
40018	Beeeemer
40018	Calluwin
40018	Dive-Dive
40018	Indy05
40018	jamaway
40018	kid66
40018	marshal arts
40018	Natsme
40018	newyearlife
40018	ocean11
40018	oceans14
2641649	TressureHunt

UserID	Username
40018	QQwins
40018	Skipmyloo
40018	Starbucs
147524	groundskinner
147524	TakeThe5th
147524	trying again
147524	2yung2fast*
147524	8-9Suited
147524	ACaction
147524	azzazzin
147524	BJPlayer
147524	crackerboxxx
147524	dad77
147524	monizzle
147524	NCWolfpac
147524	OnceMore
147524	scramble18
147524	snowball
147524	Tiltorama
147524	Titanic_T
147524	Triceagain
147524	WSOP07
622621	Butterfly29
622621	Butterfly30
622621	dragonfly30
638132	1105new
638132	30 I Am
638132	4peat
638132	clubhouse
638132	Omyfuknhead
638132	River-Broke
638132	Ticketless
638132	workinout
966687	CominHome
966687	Crackcorn55
966687	CravinAA
966687	Jupiter300
966687	LivTheLif
1676953	55WasHere

UserID	Username
1676953	AllBoutMee
1676953	Alll Inn
1676953	BlueBerry101
1676953	MoDiddle2
1676953	Squezzed
1676953	VioPlayer
1676953	Xnomas
1676958	DigginOut
1676958	FristSucks
1676958	ProBitchen
1676958	SendMeMoney
1676958	SteroidWhiz
1676958	WhizzzOff
1676972	BeachBumAA
1676972	Broke_In_L_A
1676972	GameSetMatch
1676972	GutShot32
1676972	HolyMucker
1676972	ShaqTack
1676972	SlimPikins2
1676972	WhakMe
2422566	2Yung2Fast*
2422566	ReimburseMe
2422566	Seve2Yung2Fast
2422566	SeveWonder
2422566	WacoManiac
2496885	Twenty 1
2510148	bmw750li
2561615	2Fasttttt
2561615	slug2
2561615	SweetNSour
2561621	DoMee
2561621	hamster
2561631	BenzMe
2561631	flammer2
2561631	KidXmas
2599923	H_Curtis
2641649	commish2
2641649	Treetopss

*Represents accounts with a duplicated username

In total, the Commission's investigation revealed 23 accounts that had a total of 117 usernames that were used by the responsible individual(s) to facilitate the cheating incidences.

Identifying and confirming information related to the cheating accounts was a difficult, lengthy and complex process due in part to the fact that much of the relevant data resided in a legacy database which contained limited historical logs, and which had not been operational since at least February 2006 – prior to Tokwiro acquiring its interest in the site. The identification and confirmation of the relevant accounts was further complicated by the methodology that was used to carry out the cheating – i.e., using one account to view the hole cards and other accounts to benefit from this information. Moreover, the money won by the cheating accounts was often disbursed throughout the UB site through player-to-player transfers.

INDIVIDUALS RESPONSIBLE FOR THE CHEATING

As stated in the Commission's September 29, 2008 public statement⁴, the available evidence shows that Russell Hamilton, an individual previously associated with the eWorld Holdings Group, was primarily responsible for and benefitted from the multiple cheating incidences. The vast majority of the computer devices and IP addresses used by the cheating accounts were directly associated with Russell Hamilton. The vast majority of the cheating accounts transferred money through Russell Hamilton's player accounts.

The individuals who transferred money, changed usernames or withdrew money from accounts, all had ties to the eWorld Holdings Group and/or Russell Hamilton. The beneficiaries of these transfers and withdrawals were either Russell Hamilton or individuals who worked directly with Russell Hamilton or the eWorld Holdings Group.

As indicated in the preamble, the Commission is a regulatory body whose mandate does not include assessing criminal culpability. However, based on the information it obtained during the course of its investigations into this matter, and after consulting with its legal advisors, the Commission formed the opinion that the cheating incidences detailed herein could constitute criminal behaviour. Accordingly, the Commission alerted and is fully cooperating with the appropriate law enforcement agencies to take the appropriate actions.

To this end, the Commission has provided extensive information to law enforcement authorities, including the names of 31 individuals who were associated, to varying degrees, with Russell Hamilton, the cheating accounts and/or transactions related to the cheating accounts.

⁴ See footnote 3.

APPOINTMENT OF INDEPENDENT MONITOR

During the initial investigation, the Commission realized that Tokwiro's operation had several compliance deficiencies, that the forensic and technical aspects of the cheating investigation were extremely complicated, and that the Commission needed additional resources to complete the investigation to its satisfaction and to ensure fair and honest play.

In July 2008, the Commission decided to appoint an Independent Monitor, Catania Gaming Consultants, to assume control of the investigation and to report to the Commission on its findings. The Independent Monitor retained the services of Gaming Associates and KPMG to assist in its investigations. The Commission announced the appointment of the Independent Monitor in a Press Release dated July 27, 2008⁵.

INTERIM FINDINGS AND SANCTIONS

On September 19, 2008, as a result of information it had received from UB, the Independent Monitor, and other sources, the Commission concluded that UB had contravened a number of provisions of its Regulations, namely:

"245. Unless the information previously contained in the gaming record is kept in another way under an approval of the Commission, an Authorised Client Provider must keep a gaming record for five years after the end of the transaction to which the record relates.

261. A person must not, in relation to an authorized game, dishonestly obtain a benefit by any act, practice or scheme or otherwise dishonestly obtain a benefit through the use of any device, equipment or software.

270. In the event an Authorised Client Provider, Approved Agent or any other employee or agent of the Commission becomes aware, or reasonably suspects, that:

(a) a person, by a dishonest or unlawful act affecting the conduct or playing of an authorised game, has obtained a benefit for the person or another person; or

(b) there has been an unlawful act affecting the conduct or playing of an authorised game;

within twenty-four (24) hours of becoming aware of, or suspecting, the dishonest or unlawful act, the person who becomes aware must give the Commission a written notice advising the Commission of all facts known about the matter.

⁵ See full text of July 27, 2009 Press Release at www.kahnawake.com/gamingcommission

271. A person must not state anything to an Inspector the person knows to be false or misleading.

275. A person must not obstruct an Inspector in the exercise of a power or someone helping an Inspector in the exercise of a power.”

On September 29, 2008, in a publicly released statement issued by the Commission,⁶ Chairman Dean Montour announced the initial findings of the audit conducted on UB, as well as the monetary sanctions and operational conditions that were imposed at that time.

SECURITY AND ONGOING AUDITS

At the Commission’s direction, Tokwiro has implemented a new security application that detects anomalous winning statistics in real time. This application and the corresponding data are reviewed by the Commission to ensure fair play.

The previous poker system that included the illicit software has been decommissioned. The Commission and its auditors reviewed and approved the migration to the new CEREUS Poker Network system that Tokwiro currently uses to operate the UB business.

Tokwiro’s operation has been audited several times by several different firms, and future audits are scheduled to take place again during the next 12 months.

CONCLUDING REMARKS

This Decision concludes the most difficult, lengthy and complex investigation the Commission has ever undertaken. Despite the unfortunate circumstances that gave rise to this matter, the Commission is satisfied that an equitable result was achieved for UB players. The magnitude of the refund that Tokwiro made to players affected by the cheating incidences was unprecedented in the gaming industry.

The Commission is also optimistic that the sanctions and conditions imposed on the ownership of UB will establish a higher standard of conduct for online gaming operations licensed within the Mohawk Territory of Kahnawake and elsewhere. The Commission is actively enhancing all aspects of the regulatory regime, particularly its continuous compliance program.

The Commission extends thanks to its staff, advisors and agents for the dedication and professionalism they provided to the Commission throughout this matter. In particular, the Commission extends appreciation to Catania Gaming Consultants, Frank Catania, Keith Furlong, Gaming Associates and KPMG for their assistance.

Finally, the Commission acknowledges and extends its appreciation to the players, observers and commentators within the online poker community for the valuable

⁶ See footnote 3.

contributions they have made both in identifying the cheating incidences and in offering insight throughout the Commission's investigation. The Commission is of the unanimous view that the voices of this online community will continue to play a key role in shaping the future of online gaming regulation.

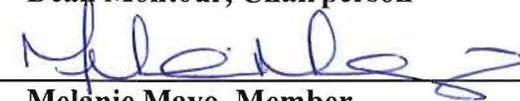
We, the undersigned, concur with this Decision.

SIGNED within the Mohawk Territory of Kahnawake this 11th day of September 2009,

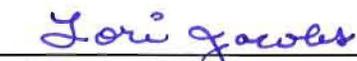
KAHNAWAKE GAMING COMMISSION

By: 

Dean Montour, Chairperson

By: 

Melanie Mayo, Member

By: 

Lori Jacobs, Member