

ANNEX F**TEXT OF STATE LAWS THAT THE PANEL
WILL CONSIDER IN EXAMINING ANTIGUA'S CLAIMS****1. Colorado**

1. The text of § 18-10-103 of the Colorado Revised Statutes provides as follows:

"(1) A person who engages in gambling commits a class 1 petty offense.

(2) A person who engages in professional gambling commits a class 1 misdemeanor. If he is a repeating gambling offender, it is a class 5 felony."

2. Louisiana

2. The text of § 14:90.3 of the La. Rev. Stat. Ann. provides as follows:

"A. The Legislature of Louisiana, desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual and promoting the health, safety, education, and welfare of the people, including the children of this state who are our most precious and valuable resource, finds that the state has a compelling interest in protecting its citizens and children from certain activities and influences which can result in irreparable harm. The legislature has expressed its intent to develop a controlled well-regulated gaming industry. The legislature is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gaming behavior which can result from the increased availability of legalized gaming activities. The legislature recognizes the development of the Internet and the information super highway allowing communication and exchange of information from all parts of the world and freely encourages this exchange of information and ideas. The legislature recognizes and encourages the beneficial effects computers, computer programming, and use of the Internet resources have had on the children of the state of Louisiana by expanding their educational horizons. The legislature further recognizes that it has an obligation and responsibility to protect its citizens, and in particular its youngest citizens, from the pervasive nature of gambling which can occur via the Internet and the use of computers connected to the Internet. Gambling has long been recognized as a crime in the state of Louisiana and despite the enactment of many legalized gaming activities remains a crime. Gambling which occurs via the Internet embodies the very activity that the legislature seeks to prevent. The legislature further recognizes that the state's constitution and that of the United States are declarations of rights which the drafters intended to withstand time and address the wrongs and injustices which arise in future years. The legislature hereby finds and declares that it has balanced its interest in protecting the citizens of this state with the protection afforded by the First Amendment, and the mandates of Article XII, Section 6 of the Constitution of Louisiana and that this Section is a product thereof.

B. Gambling by computer is the intentional conducting, or directly assisting in the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit when accessing the Internet, World Wide Web, or any part thereof by way of any computer, computer system, computer network, computer software, or any server.

C. For purposes of this Section the following definitions apply:

- (1) "Client" means anyone using a computer to access a computer server.
- (2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.
- (3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.
- (4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.
- (5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.
- (6) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.
- (7) "Home Page" means the index or location for each computer site on the World Wide Web.
- (8) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions, is able to support communications using the Transmission Control Protocol/Internet Protocol suite or its subsequent extensions, and other Internet Protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.
- (9) "Server" means a computer that listens for and services a client.
- (10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

D. Whoever commits the crime of gambling by computer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site, or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client for the primary purpose of the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit shall

be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

F. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapter 4 of Title 4, Chapters 4, 5, and 6 of Title 27, or Part V-A of Chapter 14 of Title 33 or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section, so long as the wagering is done on the premises of the licensed establishment.

G. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section so long as the wagering is done on the premises of the licensed establishment.

H. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

I. The providing of Internet or other on-line access, transmission, routing, storage, or other communication related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its primary purpose in providing such service is to conduct gambling as a business."

3. Massachusetts

3. The text of § 17A of chapter 271 of Mass. Ann. Laws provides as follows:

"Whoever uses a telephone or, being the occupant in control of premises where a telephone is located or a subscriber for a telephone, knowingly permits another to use a telephone so located or for which he subscribes, as the case may be, for the purpose of accepting wagers or bets, or buying or selling of pools, or for placing all or any portion of a wager with another, upon the result of a trial or contest of skill, speed, or endurance of man, beast, bird, or machine, or upon the result of an athletic game or contest, or upon the lottery called the numbers game, or for the purpose of reporting the same to a headquarters or booking office, or who under a name other than his own or otherwise falsely or fictitiously procures telephone service for himself or another for such purposes, shall be punished by a fine of not more than two thousand dollars or by imprisonment for not more than one year; provided, however, that this section shall not apply to use of telephones or other devices or means to place wagers authorized pursuant to the provisions of section 5C of chapter 128A."

4. Minnesota

4. The text of § 609.75, Subdivisions 2-3 of Minn. Stat. Ann. provides as follows:

"Subd. 2. Bet.

A bet is a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance although the chance is accompanied by some element of skill.

Subd. 3. What are not bets.

The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) The game of bingo when conducted in compliance with sections 349.11 to 349.23.

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) The operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the gambling control board or an organization exempt from licensing under section 349.166.

(7) Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.

(8) The purchase and sale of state lottery tickets under chapter 349A."

5. The text of § 609.755(1) of Minn. Stat. Ann. provides as follows:

"Whoever does any of the following is guilty of a misdemeanor:

(1) makes a bet;

(2) sells or transfers a chance to participate in a lottery;

(3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein;

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place; or

(5) except where authorized by statute, possesses a gambling device.

Clause (5) does not prohibit possession of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value."

5. New Jersey

6. The text of paragraph 2 of N.J. Const. Art. 4, Sec. VII provides as follows:

"No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election, except that, without any such submission or authorization:

A. It shall be lawful for bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct, under such restrictions and control as shall from time to time be prescribed by the Legislature by law, games of chance of, and restricted to, the selling of rights to participate, the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by the Legislature by law, shall authorize the conduct of such games of chance therein;

B. It shall be lawful for the Legislature to authorize, by law, bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct games of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kinds of games of chance sometimes known as raffles, conducted by the drawing for prizes or by the allotment of prizes by chance, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which such law shall be adopted by a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by law and for the Legislature, from time to time, to restrict and control, by law, the conduct of such games of chance;

C. It shall be lawful for the Legislature to authorize the conduct of State lotteries restricted to the selling of rights to participate therein and the awarding of prizes by drawings when the entire net proceeds of any such lottery shall be for State institutions and State aid for education; provided, however, that it shall not be competent for the Legislature to borrow, appropriate or use, under any pretense whatsoever, lottery net proceeds for the confinement, housing, supervision or

treatment of, or education programs for, adult criminal offenders or juveniles adjudged delinquent or for the construction, staffing, support, maintenance or operation of an adult or juvenile correctional facility or institution;

D. It shall be lawful for the Legislature to authorize by law the establishment and operation, under regulation and control by the State, of gambling houses or casinos within the boundaries, as heretofore established, of the city of Atlantic City, county of Atlantic, and to license and tax such operations and equipment used in connection therewith. Any law authorizing the establishment and operation of such gambling establishments shall provide for the State revenues derived therefrom to be applied solely for the purpose of providing funding for reductions in property taxes, rental, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, in accordance with such formulae as the Legislature shall by law provide. The type and number of such casinos or gambling houses and of the gambling games which may be conducted in any such establishment shall be determined by or pursuant to the terms of the law authorizing the establishment and operation thereof;

E. It shall be lawful for the Legislature to authorize, by law, (1) the simultaneous transmission by picture of running and harness horse races conducted at racetracks located within or outside of this State, or both, to gambling houses or casinos in the city of Atlantic City and (2) the specific kind, restrictions and control of wagering at those gambling establishments on the results of those races. The State's share of revenues derived therefrom shall be applied for services to benefit eligible senior citizens as shall be provided by law; and

F. It shall be lawful for the Legislature to authorize, by law, the specific kind, restrictions and control of wagering on the results of live or simulcast running and harness horse races conducted within or outside of this State. The State's share of revenues derived therefrom shall be used for such purposes as shall be provided by law."

7. The text of § 2A:40-1 of N.J. Code provides as follows:

"All wagers, bets or stakes made to depend upon any race or game, or upon any gaming by lot or chance, or upon any lot, chance, casualty or unknown or contingent event, shall be unlawful."

6. New York

8. The text of § 9 of Art. I of N.Y. Const. provides as follows:

"1. No law shall be passed abridging the rights of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; except as hereinafter provided, no lottery or the sale of lottery tickets, pool-selling, bookmaking, or any other kind of gambling, except lotteries operated by the state and the sale of lottery tickets in connection therewith as may be authorized and prescribed by the legislature, the net proceeds of which shall be applied exclusively to or in aid or support of education in this state as the legislature may prescribe, and except pari-mutuel betting on horse races as may be prescribed by the legislature and from which the state shall derive a reasonable revenue for the support of government, shall hereafter be authorized or

allowed within this state; and the legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

2. Notwithstanding the foregoing provisions of this section, any city, town or village within the state may by an approving vote of the majority of the qualified electors in such municipality voting on a proposition therefor submitted at a general or special election authorize, subject to state legislative supervision and control, the conduct of one or both of the following categories of games of chance commonly known as: (a) bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random; (b) games in which prizes are awarded on the basis of a winning number or numbers, color or colors, or symbol or symbols determined by chance from among those previously selected or played, whether determined as the result of the spinning of a wheel, a drawing or otherwise by chance. If authorized, such games shall be subject to the following restrictions, among others which may be prescribed by the legislature: (1) only bona fide religious, charitable or non-profit organizations of veterans, volunteer firefighter and similar non-profit organizations shall be permitted to conduct such games; (2) the entire net proceeds of any game shall be exclusively devoted to the lawful purposes of such organizations; (3) no person except a bona fide member of any such organization shall participate in the management or operation of such game; and (4) no person shall receive any remuneration for participating in the management or operation of any such game. Unless otherwise provided by law, no single prize shall exceed two hundred fifty dollars, nor shall any series of prizes on one occasion aggregate more than one thousand dollars. The legislature shall pass appropriate laws to effectuate the purposes of this subdivision, ensure that such games are rigidly regulated to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and the diversion of funds from the purposes authorized hereunder and establish a method by which a municipality which has authorized such games may rescind or revoke such authorization. Unless permitted by the legislature, no municipality shall have the power to pass local laws or ordinances relating to such games. Nothing in this section shall prevent the legislature from passing laws more restrictive than any of the provisions of this section."

9. The text of § 5-401 of the N.Y. Gen. Oblig. L. provides as follows:

"All wagers, bets or stakes, made to depend upon any race, or upon any gaming by lot or chance, or upon any lot, chance, casualty, or unknown or contingent event whatever, shall be unlawful."

7. South Dakota

10. The text of these sections provides as follows:

"22-25A-1 "Bet or wager" defined.

For the purposes of this chapter, the term, bet or wager, means to directly or indirectly take, receive, or accept money or any valuable thing with the understanding or agreement that the money or valuable thing will be paid or delivered to a person if the payment or delivery is contingent upon the result of a race, contest, or game or upon the happening of an event not known to be certain. Bet or wager does not include the purchase, sale, or trade of securities or commodities under state or federal law.

22-25A-2 "Gambling business" defined.

For the purposes of this chapter, the term, gambling business, means a business that is conducted at a gambling establishment or involves the placing, receiving, or making of bets or wagers or offers to engage in the placing, receiving, or making of bets or wagers.

22-25A-3 "Internet" defined.

For the purposes of this chapter, the term, internet, means the international computer network of both federal and nonfederal interoperable packet switched data networks.

22-25A-4 "Interactive computer service" defined.

For the purposes of this chapter, the term, interactive computer service, means a service, system, or network or access software provider that uses public communication infrastructure or operates to provide or enable computer access by multiple users to a computer server, including a service or system that provides access to the internet.

22-25A-5 "Person" defined.

For the purposes of this chapter, the term, person, means an individual, association, partnership, joint venture, corporation, or a director, executive, or officer of an association, partnership, joint venture, or corporation, a political subdivision of this state, or a department, agency, or instrumentality of this state, or any other government, organization, or entity, including an Indian tribe.

22-25A-6 "State" defined.

For the purposes of this chapter, the term, state, means this state, including a territory, possession, county, and land owned, occupied, or held in trust for an Indian tribe, whether or not federally recognized as an Indian tribe.

22-25A-8 Establishment of internet gambling business prohibited.

Except as provided in § 22-25A-15, no person may establish a location or site in this state from which to conduct a gambling business on or over the internet or an interactive computer service.

22-25A-9 Violation if gambling originates or terminates in state -- Each bet a separate violation.

A violation of § 22-25A-7 or § 22-25A-8 occurs if the violation originates or terminates, or both, in this state. Each individual bet or wager offered in violation of § 22-25A-7 or from a location or site that violates § 22-25A-8 constitutes a separate violation.

22-25A-10 Violation a felony.

Any person who violates § 22-25A-7 or § 22-25A-8 is guilty of a felony as follows:

- (1) For a first offense, a Class 6 felony;

(2) For a second or subsequent offense, a Class 5 felony.

22-25A-11 Prosecution of violations.

The attorney general or the state's attorney for the county in which a violation under this chapter occurred, may prosecute violations of this chapter.

22-25A-12 Notification of illegal web site and penalties.

The attorney general may notify a gambling business that its web site is illegal in this state and list the penalties for violating this section.

22-25A-13 Preliminary restraining order available as condition of bond.

The attorney general or state's attorney may seek, and the court may enter, a preliminary restraining order enjoining a person from transmitting bets or wagers or information to assist in the placing of bets or wagers as a condition of bond pending trial or other disposition of the case.

22-25A-14 Permanent injunction available against guilty party.

If a person is found guilty or pleads guilty to a charge brought under this chapter, the attorney general or states attorney may seek, and the court may enter, a permanent injunction against the person or gambling business enjoining the person or gambling business from transmitting bets or wagers or information to assist in the placing of bets or wagers.

22-25A-15 Inapplicability of chapter to state lottery or commission on gaming.

This chapter does not apply to the South Dakota Lottery and its licensees, who are engaged in conduct in furtherance of activity expressly authorized, licensed, and regulated under the provisions of chapter 42-7A or to the South Dakota Commission on Gaming and its licensees, who are engaged in conduct in furtherance of activity expressly authorized, licensed, and regulated under the provisions of chapters 42-7 and 42-7B."

8. Utah

11. The text of § 76-10-1102 of the Utah Code Ann provides as follows:

"(1) A person is guilty of gambling if he:

(a) participates in gambling;

(b) knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(c) knowingly allows the use of any video gaming device that is:

(i) in any business establishment or public place; and

(ii) accessible for use by any person within the establishment or public place.

(2) Gambling is a class B misdemeanor, provided, however, that any person who is twice convicted under this section shall be guilty of a class A misdemeanor."
