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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF SAN FRANCISCO

17 MARIO CISNEROS, On Behalf of Himself)	Case No.
and All Others Similarly Situated, and the)	
18 General Public,)	<u>CLASS ACTION</u>
)	
19 Plaintiff,)	COMPLAINT FOR VIOLATIONS OF
)	CALIFORNIA BUSINESS AND
20 vs.)	PROFESSIONS CODE SECTIONS 17200, <i>ET</i>
)	<i>SEQ.</i>
21 YAHOO, INC.; GOOGLE, INC.;)	
OVERTURE SERVICES, INC.; ASK)	
22 JEEVES, INC.; ALTAVISTA, INC.; TERRA)	<u>DEMAND FOR JURY TRIAL</u>
LYCOS INC.; LOOKSMART, LTD.,)	
23 JUPITERMEDIA CORPORATION; CNET)	
NETWORKS, INC.; FINDWHAT.COM;)	
24 KANOODLE.COM, INC.; INFOSPACE, INC.)	
and DOES 1-100, inclusive,)	
25)	
Defendants.)	
26)	

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1 Plaintiff, Mario Cisneros, and Michael Voight brings this action on behalf of the general public.
2 The allegations pertaining to plaintiffs are made upon personal knowledge. Plaintiffs allegations pertain
3 to defendants Google, Inc. (“Google”); Yahoo, Inc. (“Yahoo”); Overture Services Inc. (“Overture”);
4 AltaVista Inc. (“AltaVista”); Ask Jeeves, Inc. (“Ask Jeeves”); Lycos Inc. (“Lycos”); LookSmart, Ltd.
5 (“LookSmart”), Jupitermedia Corporation (“Jupiter”), CNET Networks, Inc. (“CNET”) FindWhat.com
6 (“FindWhat”), Kanoodle.com, Inc. (“Kanoodle”); InfoSpace, Inc. (“InfoSpace”) and Does 1-100
7 (hereinafter referred to collectively as “Defendants”). Allegations relating to these defendants and any
8 remaining allegations are made upon information and belief, formed after an inquiry reasonable under
9 the circumstances.

10 **I. INTRODUCTION AND SUMMARY OF FACTS**

11 1. This is a private Attorney General action brought on behalf of the California general
12 public against the major Internet search engine Websites which promote and advertise illegal Internet
13 gambling in California.

14 2. Internet gambling is a growing business. Since the mid-1990s, Internet gambling
15 operators have established approximately 1,800 gambling Website locations with revenue in 2003
16 estimated to be \$5.0 billion. *See* GAO Report, Internet Gambling, on Overview of Issues, December
17 2002 attached as Exhibit 1 (“Ex.”) to Appendix. The internet gambling websites at issue in this
18 complaint are leading internet gambling websites which have been in operation for many years and are
19 large operations involving numerous employees, agents and owners.

20 3. The longstanding public policy of the State of California prohibits the unregulated
21 business of gambling as noted in Cal. Bus. & Prof. Code §19801:

22 The Legislature hereby finds and declares all of the following:

23 (a) The longstanding public policy of this state disfavors the
24 business of gambling. State law prohibits commercially operated
25 lotteries, banked or percentage games, and gambling machines, and
26 strictly regulates pari-mutuel wagering on horse racing. To the extent
that state law categorically prohibits certain forms of gambling and
prohibits gambling devices, nothing herein shall be construed, in any
manner, to reflect a legislative intent to relax those prohibitions.

27 (b) Gambling can become addictive and is not an activity to be
28 promoted or legitimized as entertainment for children and families.

1 (c) (1) Unregulated gambling enterprises *are inimical to the*
2 *public health, safety, welfare, and good order*. Accordingly, no person
3 in this state has a right to operate a gambling enterprise except as may be
expressly permitted by the laws of this state and by the ordinances of
local governmental bodies. [v]

4 So too, Article IV, Legislative Section 19 of the California Constitution provides:

5 (a) The Legislature has no power to authorize lotteries and shall
6 prohibit the sale of lottery tickets in the State.

7 * * *

8 (e) The Legislature has no power to authorize, and shall prohibit,
casinos of the type currently operating in Nevada and New Jersey;

9 (f) Notwithstanding subdivisions (a) and (e), and any other
10 provision of state law, the Governor is authorized to negotiate and
11 conclude compacts, subject to ratification by the Legislature, for the
12 operation of slot machines and for the conduct of lottery games and
13 banking and percentage card games by federally recognized Indian tribes
on Indian lands in California in accordance with federal law.
Accordingly, slot machines, lottery games, and banking and percentage
card games are hereby permitted to be conducted and operated on tribal
lands subject to those compacts. [v]

14 Notably, lawful gambling establishments in California are heavily regulated to ensure that any gambling
15 that occurs is beneficial to citizens of California.

16 4. Defendants and the Internet gambling businesses at issue in this complaint are not
17 licensed in California to provide legal gambling services in the state of California as required by the
18 Gambling Control Act, Cal. Bus. & Prof. Code §§19800 *et seq.* and therefore, have no right to conduct
19 a gambling business in the state of California.

20 5. Defendants are the major Internet search engines whose business is to generate
21 advertising content and generate revenues and profits by driving Internet traffic to commercial
22 Websites. These Websites pay advertising fees to defendants for providing advertising to users tailored
23 to the particular user's search request. In most cases defendants earn their advertising fees only when
24 the user "clicks-through" to defendants' websites.

25 6. Despite the illegal nature of unlicensed Internet gambling in California, and the United
26 States in general, each of the defendants actively and knowingly promote, advertise and facilitate illegal
27 Internet gambling by providing advertising for illegal Internet gambling businesses. Each of the
28 defendants actively and knowingly accepts payment to provide advertisements, paid links, and search

1 result listings for Websites of unlicensed Internet gambling businesses to users. Defendants’
2 advertising revenue is determined by the search term input by the user. Hence, defendants expressly
3 sell the rights to advertisements based on such terms as “illegal gambling,” “Internet gambling,” and
4 “California gambling.” Further, each of the defendants either expressly uses, or has access to, geo-
5 tracking software which permits defendants to be able to target illegal gambling advertisements to
6 particular regions including California.

7 7. Defendants’ promotion and advertisements have resulted in billions of dollars worth of
8 illegal Internet gambling in California during the past four years, substantial unlawful profits by
9 defendants and their co-conspirators, and substantial gambling losses to California residents.
10 Defendants’ conduct has also resulted in the depletion of substantial tax resources for the State of
11 California as Internet gambling evades California regulation and taxation contrary to the laws and
12 public policy of this state. The general public has also been harmed, as the net effect of defendants’
13 illegal actions has been to extract resources out of the legitimate sectors of the California economy and
14 has created financial ruin with its attendant social costs for thousands of Californians.

15 8. By this action, plaintiffs seek to have defendants’ advertisement of illegal Internet
16 gambling declared illegal. Plaintiffs seek to enjoin defendants from advertising unlicensed Internet
17 gambling businesses or their agents or affiliates for advertisements for the web pages of such businesses
18 or their agents, and seek to enjoin the placement of advertisements with California residents.

19 9. Also by this action, plaintiffs seek to have defendants disgorge and forfeit all revenues
20 and profits from such illegal activity to a fund to be used for purposes to be directed by the court, to be
21 given in restitution to California Indian Tribes or other licensed gambling businesses in California, to be
22 given in restitution to the spouses of gamblers who have had community property improperly taken
23 from them as a result of illegal gambling, to the state treasury as forfeited gambling proceeds in the
24 form of restitution for unpaid license fees, gambling taxes, and/or as an escheat directly to the State of
25 California of any remaining disgorged profits or unclaimed, or unclaimable common funds.

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1 **II. JURISDICTION AND VENUE**

2 10. This Court has jurisdiction over all causes of action asserted herein pursuant to the
3 California Constitution, Article VI, §10, because this case involves causes of action not given by statute
4 to other trial courts or administrative agencies.

5 11. This Court has jurisdiction over defendants because each defendant is a corporation that
6 conducts substantial business in the State of California. Defendants Google, Yahoo, Overture, Ask
7 Jeeves, AltaVista, Lycos, LookSmart, Jupiter, InfoSpace, and CNET have their headquarters or have
8 substantial offices in California and all defendants have significant business contacts with this state.
9 Each of the defendants have sufficient minimum contacts with California or otherwise intentionally
10 avail themselves of the consumer markets within California through their advertising and marketing
11 activities in California so as to render the exercise of jurisdiction by California courts and the
12 application of California law to the claims of plaintiff and the general public permissible under
13 traditional notions of fair play and substantial justice.

14 12. Venue is proper in this County as the acts upon which this action is based occurred in
15 part in this County. The principal place of business of some of the defendants, at the commencement of
16 this action, is in this county. The general public was damaged and subjected to irreparable harm in this
17 venue due to defendants' unfair and unlawful business activities and advertising of illegal activities in
18 this County. Further, defendants received substantial compensation and profits in this County and
19 defendants' liability arose through the illegal Internet gambling, advertising, and related activity which
20 occurred in this County.

21 **III. PARTIES**

22 **A. Plaintiffs**

23 13. (a) Plaintiff Mario Cisneros resides in San Rafael, California and has not engaged in
24 the Internet gambling activities as described in this complaint.

25 (b) Plaintiff Michael Voight resides in Marin County, California and used search
26 engines in California to find Internet gambling Websites, and as a result, lost over \$100,000 gambling
27 in California.

1 (d) Plaintiffs bring this action on behalf of California residents and assert claims
2 against defendants in this Complaint under the provisions of the California Unfair Business Practices
3 statute (“UCL”), Cal. Bus. & Prof. Code §§17200, *et seq.*, and Cal. Civ. Code §§17500, *et seq.*
4 Plaintiffs seek to enjoin Defendants from participating in, and continuing to market, sell, and display
5 advertising for illegal Internet gambling establishments that violate the California UCL and California
6 gambling laws. Plaintiffs seek restitution, forfeiture, and disgorgement of illegal gambling proceeds.

7 **B. Defendants**

8 14. Defendants provide Internet search engine results to persons in California. Defendants
9 obtain substantial revenues from this activity by providing advertisements, paid placement listings,
10 sponsored matches, sponsored links, paid inclusion services, click through links, and other types of paid
11 advertising to its Internet users. These advertisements are individualized based upon the search term
12 entered by the user. The advertising rates and conditions are tied to these search terms. The
13 advertisements are prominently displayed to Internet users along side “editorial” search results.
14 Defendants obtain revenue from these websites when they convince users to “click-through” to the
15 advertisers’ websites. The content of defendants’ advertisements are created wholly or partially by
16 defendants. In the case of illegal gambling, this “click-through” directs California users to Internet
17 gambling websites where persons in California are enticed to gamble away their hard-earned savings
18 using their home and work computers. As such, all of the defendants in this case knowingly advertise,
19 in California, to California residents, gambling activities so as to encourage illegal gambling in
20 California. In the past four years, defendants knowingly and willfully conspired with internet gambling
21 websites and others to carry out these illegal gambling activities through the use of Overture’s
22 advertising capabilities and, in fact, carried out these advertising activities in furtherance of the
23 conspiracy, thereby lending aid and encouragement to illegal gambling websites.

24 **a. Yahoo, Inc**

25 (i) Defendant Yahoo, Inc (“Yahoo”) is an Internet search engine and
26 advertising information content provider. Yahoo’s headquarters is located at 710 First Avenue,
27 Sunnyvale, California. At all relevant times, defendant Yahoo has exercised dominion and control over
28 its subsidiaries and divisions, including but not limited to: Overture, Inc., AltaVista, Inktomi, and

1 AllTheWeb (collectively “Yahoo”). Yahoo is liable for the acts of such subsidiaries under the facts set
2 forth herein.

3 (ii) In 2003, Yahoo’s revenue for Internet marketing services (advertising)
4 was \$1.2 billion. Yahoo 1 at 27 [10-K at 27.] This accounted for approximately 74 percent of Yahoo
5 total revenue. Yahoo at 13 [10-K at 13.] As noted by Yahoo, “[M]arketing services revenue is
6 primarily generated from the sale of rich media advertisements (banner and other media
7 advertisements), sponsorship and text-link advertisements, (including pay-for-performance search
8 advertisements), paid inclusion, algorithmic searches and transactions revenue.” Yahoo 1 at 51 [10-K
9 at 51.] [v] Much of this income is derived from its wholly owed subsidiary Overture, Inc. (“Overture”)
10 which is headquartered in Pasadena, California and has offices in Palo Alto, California. Yahoo 1 at 23
11 [10-K at 23.] As described in Yahoo’s recent Report on Form 10-K, Overture's pay-for-performance
12 search service is comprised of advertiser-generated listings, which are accessed by users and businesses
13 through the Yahoo properties and through Overture's affiliates, a network of Web properties that have
14 integrated Overture's search service into their sites or that direct user traffic to Overture's sites. Yahoo 1
15 at ____ [10-K at 10.]

16
17
18 (iii) Yahoo provides pay-for-performance search results called “Precision
19 Match.” As described in Yahoo’s Report on Form 10-K:

20 Precision Match or keyword search prioritizes search results by the
21 amount the advertiser has bid for placement. Advertisers are listed in the
22 search results on our network and also on our affiliates' networks in
23 descending order of their bid, with the highest bidder appearing as the
24 first search listing in the search results. Bids may be expressed either as
the amount the advertiser pays each time there is a click on the
advertiser's search listing or as the maximum amount the advertiser is
willing to pay for a click on the advertiser's search listing. [v]

25 Yahoo 1 at 6. Notably, advertisers must specify the key word search term or phrase upon which they
26 wish to their advertisements to appear. Yahoo directly sells advertising for such terms as “Internet
27 casino,” “casino gambling online,” and “lottery.” Yahoo has actual and/or constructive knowledge of
28 its advertising of illegal internet gambling in California to persons in California.

1 (iv) Yahoo also utilizes geo-tracking technology which permits Yahoo to
2 control advertising so that search term advertising is sold on a geographical basis. As such, Yahoo
3 expressly sells the advertising rights to terms such as “Internet gambling” for searches conducted in the
4 United States where Internet gambling is illegal in all 50 states. Indeed, Yahoo’s Overture Website has
5 expressly barred advertising for gambling Websites on its Australian service since at least 2002
6 demonstrating Yahoo’s ability to prevent illegal gambling advertising to particular locales when Yahoo
7 sees fit to do so.

9 (v) Yahoo recognizes the potential liability that they face by deriving
10 revenue from illegal gambling activities by noting in their recent 10-Q that:

11 “We are subject to general business regulations and laws, as well as
12 regulations and laws directly applicable to the Internet. As we continue
13 to expand the scope of our properties and service offerings, the
14 application of existing laws and regulations to Yahoo relating to issues
15 such as ... gambling ... can be unclear.... Any existing or new legislation
applicable to us could expose us to substantial liability, including
significant expenses necessary to comply with such laws and
regulations....” Yahoo 2 at 39

16 [March 31, 2004, 10-Q at 39.] [v] Plaintiffs’ action in this case is designed to ensure this compliance
17 and to expose Yahoo to the liability consistent with its illegal actions in California.

18 **b. Google, Inc.**

19 (vi) Defendant Google, Inc. (“Google”) is an Internet search engine and an
20 advertising information content provider. Google has its headquarters at 1600 Amphitheatre Parkway,
21 Mountain View, California. Google’s net revenues for 2003 were \$962 million dollars of which
22 approximately 95% was obtained from its advertisers. S-1 Registration Statement.

23 (vii) Google’s advertising program consists of two basic services
24 “Adwords” and “Adsense.” Adwords are “sponsor link” advertisements that are imposed upon users
25 based upon the precise search phrase typed by a user. Goggle obtains revenue from these
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28

1 advertisements only if the advertisements are effective in luring consumers to go to the advertiser's
2 websites ("cost-per-click"). As described by Google in its April 29, 2004 Registration Statement:

3
4 In the fourth quarter of 2000, we launched Google AdWords, an online
5 self-service program that enables advertisers to place targeted text-based
6 ads on our web sites. AdWords customers originally paid us based on
7 the number of times their ads appeared on users' search results pages. ***In
8 the first quarter of 2002, we began offering AdWords exclusively on a
9 cost-per-click basis, so that an advertiser pays us only when a user
10 clicks on one of its ads.*** [v]

7 Google 1 at 37 [Registration Statement at 37 (emphasis added).]

8 (viii) Similarly, AdSense is a service whereby Google places each
9 advertiser's links on "Google Network members" Webpages and thereby obtains "cost-per-click"
10 revenues for actions that occur on these third party Websites. Google 1 at 37 [S-1 at 37] As described
11 in the Registration Statement:

12
13 Google AdSense is the program through which we distribute our
14 advertisers' text-based ads for display on the web sites of our Google
15 Network members. Our AdSense program includes AdSense for search
16 and AdSense for content. AdSense for search, launched in the first
17 quarter of 2002, is our service for distributing relevant ads from our
18 advertisers for display with search results on our Google Network
19 members' sites. AdSense for content, launched in the first quarter of
20 2003, is our service for distributing ads from our advertisers that are
21 relevant to content on our Google Network members' sites. Our
22 advertisers pay us a fee each time a user clicks on one of our advertisers'
23 ads displayed on Google Network members' web sites. [v]

19 Google 1 at 38 [S-1 at 38.] Google Network members include AOL, Ask Jeeves, Lycos, HotBot,
20 Netscape, and Teoma. As noted in its Registration Statement, Google Network members account for
21 "approximately 15% of [Google's] net revenues in 2003, and approximately 21% of [Google's] net
22 revenues for the first three months ended March 31, 2004." Google 1 at 7 [S-1, Prospectus at 7.] [v]

23 (ix) For either AdSense or Adwords, advertisers pay Google a fee each time
24 a user clicks on one of the advertisements displayed on a Google or Google Network members'
25 Websites. Notably, advertisers must specify the relevant search term or phrase for which they wish to
26 advertise. Google 1 at 57 [Registration Statement at 57.] Google directly sells advertising for such
27 search terms as "Texas hold 'em," "hockey bet," "baseball bet," and "facebook." Google obtains no
28

1 revenue for these advertising services unless Google is successful in prevailing upon users to actually
2 visit these advertised websites. Google has actual and/or constructive knowledge of its advertising of
3 illegal Internet gambling in California.

4 (x) Google also utilizes IP geo-tracking technology so that advertising
5 terms are sold to particular geographical areas. As noted by Google, “advertisers can also target their
6 campaigns by neighborhood, city, country, region or language.” Google 1 at 57 [S-1 at 57.] [v]
7 Google explains on their Website the advantage to advertisers is that they “have more control over your
8 ads so you can be sure they are only shown to a highly targeted audience.” Google expressly sells the
9 advertising rights to terms such as “Internet gambling” for search results conducted *in California* –
10 where these activities are illegal. In sum, Google participates in “highly targeting” persons in
11 Californian for illegal Internet gambling advertisements.

12 (xi) Recognizing the potential legal liability of these actions, Google
13 recently stated in its 2003, Report on Form 10-K filed with the Securities and Exchange Act (“SEC”)
14 that:

15 The application to us of existing laws regulating or requiring licenses for
16 certain businesses of our advertisers ... can be unclear. Existing ...
17 legislation could expose us to substantial liability ... and cause us to
18 incur significant expenses in order to comply with such laws and
19 regulations. [v]

20 Google 1 at 57 [S-1 at 12.]

21 **c. Overture**

22 (i) Defendant Overture is an Internet search engine and advertising
23 information content provider and is a wholly-owned subsidiary of Yahoo. Overture’s headquarters is
24 located at 74 North Pasadena Avenue, 3rd Floor, Pasadena, California. Overture claims to reach over
25 80% of active U.S. Internet users and claims to have more than 100,000 active, paying advertisers
26 and distribution partners. In a recent review of Overture’s Website taken at the end of March 2004,
27 Overture’s Internet advertisers include approximately 40 Internet gambling Websites including: SBG
28 Global – Internet Gambling, (www.Betsbg.com), Planetluck Casino (www.Planetluck.com),

1 GoldenPalace.com (www.GoldenPalace.com). Ex. ____, Overture 1. Indeed, Overture had bids of as
2 much as \$12.97 from “SBG Global – Internet Gambling” for each click through by an Internet user
3 using the search phrase “Internet gambling.” By contrast, prevailing click-through bids for such
4 terms as “pet supplies” and “stamp collecting” are well under a dollar. As such, Overture has been
5 abstracting super-premium profits as a result of their involvement in illegal activities.

6 (ii) Overture also utilizes geo-tracking technology which permits Overture
7 to control advertising so that search-term advertising is sold on a geographic basis. Overture
8 expressly sells the advertising rights to terms such as “Internet gambling” for searches conducted in
9 the United States where Internet gambling is universally illegal. Overture has actual and/or
10 constructive knowledge that it is advertising illegal gambling in the state of California to persons in
11 California.

12 **d. AltaVista**

13 (i) Defendant AltaVista is an internet search engine and an advertising
14 information content provider. Alta Vista’s headquarters is located at 1070 Arastradero Road, Palo
15 Alto, California. AltaVista is a wholly-owned subsidiary of Overture which in turn is a wholly-
16 owned subsidiary of Yahoo. Users that conduct searches on AltaVista’s search engine are confronted
17 with search results as well as “sponsored matches” which AltaVista admits are “sites that pay for
18 placement in search results on terms that are relevant to their business.” AltaVista admits that these
19 “listings are provided by Overture Services, a wholly-owned subsidiary of Yahoo, and appear on
20 AltaVista Search results pages.” Alta Vista 1 For the reasons described herein, Yahoo and Overture
21 are liable for Alta Vista’s actions in providing illegal Internet gambling advertisements to California
22 residents.

23 **e. Ask Jeeves, Inc.**

24 (i) Defendant Ask Jeeves, Inc. (“Ask Jeeves”) is an internet search engine
25 and an advertising information content provider. Jeeves is headquartered at 5858 Horton Street, Suite
26 350, Emeryville, and has offices in Los Angeles and Los Gatos, California. According to the
27 Company’s March 31, 2004, 10-Q, Ask Jeeves operates a number of proprietary Websites including:
28 Ask Jeeves, Ask Jeeves for Kids, Teoma, Excite, iWon, My Way and others. Ask Jeeves 1 at 12 [10-Q

1 at 12] On or about March 4, 2004, Ask Jeeves purchased Interactive Search Holding, Inc. which is
2 commonly known as the Excite Network. Since this time, Defendant Ask Jeeves has exercised
3 dominion and control over the Excite Network and is therefore liable for its acts. Ask Jeeves also
4 provides search technology and advertising products to approximately 50 network sites, including
5 portals, infomediaries, and content and destination Websites. Ask Jeeves 1 at 12, 10-Q at 12. As noted
6 in their Report on Form 10-Q, Ask Jeeves provides:

7 [S]earch results and/or advertising for those Web sites to display in
8 response to their users' search queries. We refer to these third-party
Web sites as our syndication network....

9 Ask Jeeves 1 at 6 [10-Q]. All told, Ask Jeeves keyword network reaches some 64,000,000 unique users
10 monthly on 468,600,000 search queries.

11 (ii) According to Ask Jeeves's 10-Q, Ask Jeeves obtained approximately
12 \$39.2 million in revenues during the first three months of this year of which \$31.2 million was derived
13 from paid placement advertising. Ask Jeeves 1, at 15. As noted in the Report on Form 10-Q:

14 We generate advertising revenue every time users click on the paid
15 listings, or as a result of graphic advertising and other advertising
16 products we deliver in response to their queries. In this way, we
17 monetize a portion of our Web traffic. Some of the advertisements are
sold by our direct sales force while others are supplied to us by our paid
listings provider, which currently is Google, Inc. [v]

18 *Id.* at 12.

19 (iii) Advertisers pay Ask Jeeves a fee each time a user clicks on one of the
20 advertisers' advertisements displayed on a website controlled by Ask Jeeves or its affiliates. Notably,
21 advertisers must specify the key word search term or phrase upon which they wish to their
22 advertisements to appear. Ask Jeeves directly sells advertising for such terms as "gambling" or "online
23 gambling." Ask Jeeves has actual and/or constructive knowledge that it is advertising illegal gambling
24 in California to persons in California.

25 (iv) Ask Jeeves also has access to Internet protocol geo-tracking
26 technologies which permit Ask Jeeves to control advertising so that advertising terms are sold on a
27 geographical basis. As such, Ask Jeeves could refuse to advertise illegal Internet gambling to
28

1 California residents while permitting this advertisement in regions where this activity was legal, if Ask
2 Jeeves chose to do so.

3 **f. CNET Network**

4 (i) Defendant CNET Networks, Inc. and its business divisions MySimon,
5 Search.com and ZDNet (collectively “CNET”) are Internet search engines and advertising information
6 content providers. CNET’s headquarters is located at 235 Second Street, San Francisco, California.
7 CNET provides Internet users with Internet search engine pages and advertising results under several
8 webpages including the www.MySimon.com, www.ZDNet.com, www.Techrepublic.com,
9 www.builder.com, www.Search.com websites. CNET 1 at _____. At all relevant times, defendant CNET
10 has exercised dominion and control over its subsidiaries and divisions and is therefore liable for their
11 acts.

12 (ii) Marketing services, which includes impression-based advertising, is
13 one of CNET’s primary sources of revenue, and accounted for 69% of CNET’s total revenue for 2003
14 (nearly \$170 million). CNET 1 at _____. CNET’s activity based services require that, advertisers pay
15 CNET a fee each time a user clicks on one of the advertisers’ advertisements displayed on Websites
16 controlled by CNET or their affiliates. CNET 1at _____. Notably, advertisers must specify the key word
17 search term or phrase upon which they wish their advertisements to appear. CNET directly sells
18 advertising for such terms as “illegal gambling” or “California gambling.” CNET has actual and/or
19 constructive knowledge that is advertising illegal gambling in California to persons in California.

20 (iii) CNET also has access to Internet protocol geo-tracking technologies
21 which permits CNET to control advertising so that advertising can be distributed on a geographical
22 basis. As such, CNET’s sale of advertising based upon the search term “Internet gambling” could b lock
23 illegal Internet gambling advertising from being imposed upon California residents if CNET chose to do
24 so.

25 **g. Terra Lycos S.A.**

26 (i) Defendant Terra Lycos’ (“Lycos”) is an internet search engine and an
27 advertising information content provider. Lycos’ corporate headquarters is in Barcelona Spain, and
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1 Lycos maintains offices in San Francisco, California at 660 Third Street, Fourth Floor and in El
2 Segundo, California at 840 Apollo Street, Suite 251. Lycos has exercised dominion and control over its
3 subsidiaries and their web pages, including but not limited to Lycos, Inc., HotBot Inc., and Terra, Inc.
4 and is therefore liable for their acts.

5 (ii) According to Lycos' FY2003 Annual Report, Lycos' United States
6 operation had total FY2003 operating revenues of \$142 million and Lycos obtained ____% of its
7 worldwide operating revenues came from advertising. Lycos 1, at 26, 29. According to the report, in
8 the United States "the market is clearly evolving to performance advertising." *Id.* at 29. Under
9 performance advertising, advertisers pay Lycos a fee each time a user clicks on one of the advertisers'
10 advertisements displayed on Websites controlled by Lycos or their affiliates. Notably, advertisers must
11 specify the key word search term or phrase upon which they wish their advertisements to appear. Lycos
12 expressly sells advertising for such terms as "facebook," "Internet gambling," and "Internet casino."
13 Lycos has actual and/or constructive knowledge that it is illegal advertising gambling in California to
14 persons in California.

15 (iii) Lycos also has access to Internet protocol geo-tracking technologies
16 which would permit Lycos to control advertising so that advertising terms are sold on a geographical
17 basis. As such, Lycos's sale of advertising based upon the search term "Internet gambling" could be
18 sold in jurisdictions where Internet gambling is legal while preventing this advertisement in California.

19 **h. FindWhat.com**

20 (i) Defendant FindWhat.com ("FindWhat") is an Internet search engine
21 and an advertising information content provider. FindWhat is incorporated in Nevada and located in
22 Fort Myers, Florida. FindWhat has an extensive presence in California due to its concerted efforts to
23 advertise its services to Californians via radio and billboards and advertisements and due to its 100%
24 ownership of Miva Corporation based in San Diego, California. FindWhat 1 at 2. According to its SEC
25 Form 10-K FindWhat also leases office space in California and is currently litigating a patent dispute in
26 the Federal District Court in the Central District of California. FubdWgat 1 F-13 [10-K at F-13] At all
27 relevant times, defendant FindWhat has exercised dominion and control over its subsidiaries and
28 divisions and therefore is liable for their acts.

1 (ii) In 2003, FindWhat had revenues of \$72.2 million. FindWhat 1 at 27.
2 FindWhat primarily derives its revenue from click-throughs on keyword advertisements on the
3 FindWhat.com Network, and from management fees generated from click-throughs from FindWhat’s
4 private label agreements. FindWhat 1 at 35 [10-K at 35.] FindWhat distributes keyword text
5 advertisements throughout a partner network of hundreds of Websites – including large California
6 based search engines such as CNET’s Search.com and Excite. Each day tens of millions of searches are
7 initiated on the FindWhat.com network. Advertisers pay for each keyword through a bid for position
8 system. FindWhat1 at F-8, 10-K, at F-8. Advertisements from the FindWhat Network are rank-ordered
9 through a competitive bidding process in which each advertiser’s bid represents the amount it will pay
10 FindWhat for each customer “click-through” that FindWhat sends to the advertiser’s Website.
11 FindWhat 1, at 5. As noted by FindWhat:

12 Because advertisers must pay for each click-through to their website, we
13 believe that they select and bid only on those keywords or phrases which
14 are most relevant to their business offerings. We also employ relevancy
15 algorithms that consist of an automated editing program and review by
16 our editorial staff to ensure that advertisers do not bid on irrelevant
17 keywords. [v]

18 FindWhat 1 at 5. The advertiser with the highest bid is listed first in the search results, with the
19 remaining advertisers appearing in descending order of their bids.

20 (iii) Advertisers must pay FindWhat this fee each time a user clicks on one
21 of the advertisers’ advertisements displayed on Websites controlled by FindWhat or their affiliates.
22 Notably, advertisers must specify the key word search term or phrase upon which they wish to their
23 advertisements to appear. FindWhat directly sells advertising for such terms as “sportsbook,” “Internet
24 gambling,” and “casino gambling.” FindWhat has actual and/or constructive knowledge that it is
25 advertising illegal gambling in California to persons in California.

26 (iv) FindWhat has access to Internet protocol geo-tracking technologies
27 which permits FindWhat to control advertising on a geographical basis. As such, FindWhat could
28 easily block illegal Internet gambling advertising from California residents if FindWhat chose to do
so.

1 **i. LookSmart, Ltd. (“LookSmart”)**

2 (v) Defendant LookSmart is an internet search engine and an advertising
3 information content provider. LookSmart’s corporate Headquarters is located at 625 Second Street, San
4 Francisco, California. At all relevant times, defendant LookSmart has exercised dominion and control
5 over its subsidiaries and divisions. As such, defendants are liable according to law for the acts of such
6 subsidiaries under the facts set forth herein.

7
8 (vi) According to LookSmart’s Report on Form 10-K, advertising revenue
9 from Looksmart’s “Looklisting” program and other sources accounted for \$140.9 million or 90.2% of
10 Looksmart’s total revenues in 2003 and is likely to account for “substantially all” of LookSmart’s
11 revenues in 2004. LookSmart 1 at __ [10-K at 9.] Of this, approximately 64% of LookSmart’s
12 advertising revenues for this time period were derived from its relationship with Microsoft.

13 (vii) According to LookSmart’s 10-K:

14
15 Our LookListings products provide businesses of all sizes the
16 opportunity to include listings for their company and product pages in
17 relevant search results, which are distributed across our network of
18 distribution partners. LookSmart delivered a total of 852 million paid
19 clicks, or clicks to a customer’s web site for which LookSmart receives
20 payment, for its customers in 2003. [v]

21 * * *

22 Our LookListings products include both inclusion-targeted listings and
23 keyword-targeted listings. For maximum convenience, our customers
24 may include both inclusion-targeted listings and keyword-targeted
25 listings in a single, unified campaign. Keyword-targeted listings allow
26 advertisers to select specific keywords, or search terms that are relevant
27 to their specific web pages. Upon selecting relevant keywords,
28 advertisers can choose a maximum price they are willing to pay for
clicks, thereby controlling the position of their listings in the Sponsored
Search section of the search results page. Placement of keyword-
targeted listings within the Sponsored Search results depends on the
click-through-rate and the maximum CPC, or cost-per-click, the
advertiser is willing to pay for the listing’s campaign.

Looksmart 1 at 2 [10-K at2].

(viii) Advertisers must pay LookSmart a fee each time a user clicks on one of
the advertiser’s advertisements displayed on Websites controlled by LookSmart. Advertisers must

1 specify the key word search term or phrase upon which they wish their advertisements to appear.
2 LookSmart sells advertising for such terms as “gambling,” “facebook,” and “Internet gambling.”
3 LookSmart has actual and/or constructive knowledge that it is advertising illegal gambling in California
4 to persons in California.

5 (ix) LookSmart has access to Internet protocol geo-tracking technologies
6 which permits LookSmart to control advertising on a geographic basis. As such, LookSmart could
7 block illegal Internet gambling advertisements to California.

8 **j. Jupitermedia Corporation**

9 (i) Jupiter Corporation (“Jupiter”) is an internet search engine and an
10 advertising information content provider. Jupiter is headquartered in Connecticut and has offices in San
11 Francisco at 150 Executive Park Boulevard. Jupiter provides Internet users with an Internet search
12 engine and advertising results under numerous Websites including www.Internet.com,
13 www.Earthweb.com, and the Clicks.com network. At all relevant times, defendant Jupiter has
14 exercised dominion and control over its subsidiaries and divisions and is therefore liable for such
15 subsidiaries’ acts under the facts set forth herein.

16 (ii) One of Jupiter’s primary sources of revenue derives from sponsors in
17 return for Jupiter’s customized advertising results included with each patron’s web search. For the
18 quarter ended March 31, 2004, Jupiter reported revenues of \$7.2 million in online advertising revenues.
19 Jupiter 1 at 15 [10-Q at 15.]

20 (iii) Advertisers pay Jupiter a fee each time a user clicks on one of the
21 advertisers’ advertisements displayed on Websites controlled by Jupiter or their affiliates. Notably,
22 advertisers must specify the key word search term or phrase upon which they wish to their
23 advertisements to appear. Jupiter directly sells advertising for such search terms as “gambling,” “online
24 gaming,” and “Blackjack.” Jupiter has actual and/or constructive knowledge that it is advertising illegal
25 gambling in California to persons in California.

26 (iv) Jupiter also has access to Internet protocol geo-tracking technologies
27 which permits Jupiter to control advertising so that advertising terms can be sold on a geographical
28

1 basis. As such, Jupiter’s sale of advertising based upon the search term “Internet gambling” could
2 easily block illegal Internet gambling advertising from California residents if Jupiter chose to do so.

3 **k. Kanoodle.com, Inc.**

4 (i) Defendant Kanoodle.com, Inc. (“Kanoodle”) is an Internet search
5 engine and an advertising information content provider. Kanoodle has offices located in New York.
6 Kanoodle’s search product is utilized by numerous affiliated search engines across the Internet
7 including CNET’s California-based Search.com. Kanoodle exercises dominion and control over its
8 subsidiaries and divisions and is therefore liable for their acts.

9 (ii) Kanoodle provides three primary advertising products KeywordTarget
10 – for search-targeted sponsored links, ContextTarget – for content-targeted sponsored links and
11 Behavior Target – for behavior-targeted sponsored links. Kanoodle 1. Under KeywordTarget,
12 Kanoodle sells advertisement based on a bidding system where an advertiser’s bid determines the rank
13 of the advertisement throughout Kanoodle’s network. Kanoodle 1. ContextTarget featured on
14 MSNBC.com and CBS MarketWatch “puts control back in [advertiser’s] hands” by placing graphical
15 advertisements alongside regular search results. *Id.* BehaviorTarget places advertising listings based
16 upon users’ exhibited behavior using user tracking tactics such as cookies and spyware. *Id.*

17 (iii) Advertisers must pay Kanoodle a fee each time a user clicks on one of
18 the advertisers’ advertisements displayed on Websites controlled by Kanoodle or their affiliates or
19 alternatively when ads are provided to users. Notably, advertisers must specify the key word search
20 term or phrase upon which they wish to their advertisements to appear. Kanoodle directly sells
21 advertising for such terms as “Internet gambling,” “online gambling,” and “online gaming.” Kanoodle
22 has actual and/or constructive knowledge that it is advertising illegal gambling in California to persons
23 in California.

24 (iv) Kanoodle also has access to Internet protocol geo-tracking technologies
25 which permits Kanoodle to control advertising so that advertising terms can be sold on a
26

1 geographical basis. As such, Kanoodle’s sale of advertising based upon the search term “Internet
2 gambling” could easily block illegal Internet gambling advertising to California residents.

3 **I. InfoSpace, Inc.**

4 (v) Defendant InfoSpace, Inc. is an internet search engine and an
5 advertising content provider. InfoSpace has principal corporate offices in Bellevue, Washington, and
6 California offices at 116 New Montgomery Street in San Francisco, California, and in Los Angeles,
7 California at 10940 Wilshire Blvd. Its common stock is listed on the Nasdaq National Market under the
8 symbol “INSP.” InfoSpace offers Search and Directory services through several branded Websites,
9 including InfoSpace.com, Dogpile.com, Webcrawler.com and MetaCrawler.com, as well as through the
10 Websites of numerous distribution partners. InfoSpace exercises dominion and control over its
11 subsidiaries and divisions and therefore is liable for their acts.

12 (vi) On November 28, 2001, InfoSpace acquired certain assets of
13 Excite.com (“Excite”). InfoSpace 1, at _____. The acquired assets included domain names, trademarks
14 and user traffic associated with Excite’s Website. Total net consideration for the acquired assets was
15 \$6.7 million. Under the agreement, after the first year certain assets would be transferred to the Excite
16 Network and these assets were transferred in 2003. After this transfer of assets, InfoSpace maintained
17 the search and directory components of the Excite Website. The Excite Network is responsible for
18 maintaining the look and feel of the Excite Website. During this time period InfoSpace exercised
19 dominion and control over the Excite network. In 2004, the Excite Network was sold to Ask Jeeves.

20 (vii) InfoSpace had revenues of over \$160 million in 2003. InfoSpace 1 at
21 _____. InfoSpace’s Search and Directory revenue is primarily determined by two key drivers: the
22 number of paid searches and the price per paid search. Revenues are generated when an end-user of
23 InfoSpace’s services generates a paid search at InfoSpace’s Website. *Id.* at _____. InfoSpace also
24 generates revenue from searches at a distribution partner’s Website. Generally, each time a user
25 “clicks” on a commercial search result or views a directory listing, the search engine or listing provider
26 that provided the result pays a fee. *Id.* at _____.

27 (viii) Beginning in the second quarter of 2003, InfoSpace began reporting the
28 number of paid searches and the revenue per paid search. *Id.* at _____. InfoSpace’s Search and Directory

1 business in North America generated approximately 155 million paid searches during the quarter ended
2 December 31, 2003, compared to approximately 140 million paid searches during the quarter ended
3 September 30, 2003. *Id.* at _____. Average revenue per paid search for the quarter ended December
4 31, 2003 was approximately \$0.15, compared to approximately \$0.14 per paid search for the quarter
5 ended September 30, 2003. *Id.* at _____. Search distribution, in which InfoSpace private labels search
6 products for others to offer on their own Websites, was the primary area of growth from 2002 to 2003.
7 For 2003, search revenues from distribution increased to approximately 35% of InfoSpace’s search
8 revenues and, in the fourth quarter of 2003, it was approximately 50% of InfoSpace’s search revenues.
9 *Id.* at _____. InfoSpace admits that search distribution revenue is expected to become a greater share of
10 its search revenues. *Id.* at _____. InfoSpace offers search services through its own Websites, as well as
11 through the Websites of distribution partners including WebSearch.com, Verizon Online, Cablevision,
12 Info.com, Copernic Technologies and others. The majority of Search revenue growth in 2003 was
13 generated through the addition of new distribution partners. *Id.* at _____.

14 (ix) InfoSpace competes against the other major Internet portals and other
15 providers of Web search services. It also competes against more traditional advertising media,
16 including radio, network and cable television, newspaper, magazines, Internet, direct mail and others for
17 a share of the U.S. advertising media market.

18 (x) Advertisers pay InfoSpace a fee each time a user clicks on one of the
19 advertisers’ advertisements displayed on Websites controlled by InfoSpace or their affiliates. Notably,
20 advertisers must specify the key word search term or phrase upon which they wish their advertisements
21 to appear. InfoSpace directly sells advertising for such terms as “Internet gambling,” “casino
22 gambling,” and “sportsbook.” InfoSpace has actual and/or constructive knowledge that it is advertising
23 illegal gambling in California to persons in California.

24 (xi) InfoSpace also has access to Internet protocol geo-tracking
25 technologies which permits InfoSpace to control advertising so that advertising terms are sold on a
26 geographical basis. As such, InfoSpace could block illegal Internet gambling advertising from
27 California residents if InfoSpace chose to do so.

28

1 15. The true names and capacities of the Defendants sued herein under California Code of
2 Civil Procedure (“C.C.P.”) §474 as DOES 1 through 50, inclusive, are presently unknown to plaintiff
3 who, therefore, sues these Defendants by such fictitious names. Plaintiff will seek to amend this
4 Complaint and include these DOE Defendants’ true names and capacities when they are ascertained.
5 Each of the fictitiously-named defendants is responsible in some manner, including, *inter alia*, as aiders
6 and abettors and co-conspirators, for the conduct alleged herein and for the injuries suffered by the
7 general public.

8 **IV. RELEVANT TIME PERIOD**

9 16. The Relevant Time Period upon which plaintiffs seek relief on behalf of themselves, the
10 classes and the general public for violations of the California UCL is four years from the filing of this
11 complaint alleging violations of the California UCL against each defendant in this action.

12 **V. FACTUAL BACKGROUND**

13 **A. Internet Gambling Is a Pervasive and Growing Problem**

14 17. In a March 29, 2002 article written by Kevin McCoy, USA Today reported when the
15 new champion of the Final Four college basketball tournament is crowned Monday night, one top
16 Internet bookmaker projects his website will have rung up as much as \$2 million in bets – for each day
17 of the tourney. Ex. _____. [See March 29, 2002 USA Today article attached as Ex. B to Appendix.]
18 Even the Super Bowl, another major draw for sports gamblers, “is sort of a nonevent in comparison,”
19 quoted Steve Schillinger, a co-founder of World Sports Exchange. According to USA Today, in less
20 than a decade, the online gambling industry has morphed from unheralded walk-on to a multibillion-
21 dollar-a-year powerhouse. Interactive websites instantly accommodate gamblers betting on sports
22 teams or playing such casino games as poker and roulette. “Online sports gambling is clearly illegal
23 today,” says Sebastian Sinclair, CFO of Christiansen Capital Advisors, a New York consulting firm that
24 studies the gaming industry. “But how effective has that prohibition been so far? Not very.” Roughly
25 1,400 Websites run by about 300 companies have launched since 1995, according to Christiansen
26 Capital. The firm projected that gross online sports wagering for 2003 will reach \$63.5 billion. In
27 2001, gamblers worldwide lost about \$3 billion at online sites. By comparison, gamblers at Nevada and
28 New Jersey casinos lost \$13.8 billion. During February 2002, SportingbetUSA.com registered more

1 than 14.4 million impressions – potential viewings of the firm’s Internet advertisements – according to
2 an analysis conducted for USA Today by Jupiter Media Metrix.

3 18. According to the March 29, 2002 USA Today article, sports fans eager to bet on their
4 favorite team simply establish a personal account. About 30,000 people, almost all from the USA, have
5 become regular bettors with World Sports Exchange, Schillinger says. *Id.* Each customer sends the
6 company \$300, payable by credit card or bank check. In return, the company assigns account holders a
7 password used to place bets, check account balances and review transactions. Winning bets are
8 deposited in the accounts. *“If you want to withdraw money, we’ll FedEx you a check overnight,”*
9 Schillinger says.

10 19. According to the March 29, 2002 USA Today article, federal prosecutors have “huge
11 concerns about online gambling” and advertisements that help expand the industry, says Justice
12 Department spokeswoman Jill Stillman. But investigators say they don’t have the financial resources or
13 personnel to target online gambling in a comprehensive manner. *Id.* IRS spokesman Tim Harms
14 similarly acknowledged his agency is “not doing anything specifically about Internet gambling.” He
15 does note that while it “may sound Pollyanna-ish,” gamblers are still required to report winnings on tax
16 returns.

17 20. The number of Internet gambling sites has increased substantially in recent years. While
18 there were approximately 700 Internet gambling sites in 1999, it is estimated that by the end of 2003,
19 there were approximately 1,800 such sites generating around \$4.2 billion in revenues. In addition to on-
20 line casino-style gambling sites, there are numerous off-shore sports books operations that take bets
21 both over the Internet and via the telephone. These developments are of great concern to the United
22 States Department of Justice, particularly because many of these operations are currently accepting bets
23 from United States citizens, when it is illegal to do so. *Ex. ____.* [Statement of John G. Malcolm,
24 Deputy Assistant Attorney General, Criminal Division, United States Department of Justice testified
25 Statement Before the Subcommittee on Crime, Terrorism, and Homeland Security Committee on the
26 Judiciary United States House of Representatives, Tuesday, April 29, 2003 (“DOJ Malcolm
27 Statement”); Testimony of John G. Malcolm Before the Committee On Banking, Housing, and Urban
28 Affairs, United States Senates, Tuesday, March 18, 2003 (“DOJ Malcolm Testimony”.)]

1 21. The Internet and other emerging technologies, such as interactive television, have made
2 possible many types of gambling that were not feasible a few years ago. For example, a United States
3 citizen can now, from his or her home at any hour of the day or night, participate in an interactive
4 Internet poker game. *Id.*

5 22. **Gambling by Minors.** On-line gambling also makes it far more difficult to prevent
6 minors from gambling. Unlike traditional physical casinos and Off-Track-Betting parlors, the operators
7 of gambling websites cannot look at their customers to assess their age and request photo identification.
8 Currently, Internet gambling businesses have no reliable way of confirming that gamblers on their
9 website are not minors who have gained access to a credit card.

10 23. **Compulsive Gambling.** Unlike on-site gambling, on-line gambling is readily available
11 to anyone with an Internet connection at all hours of the day or night. This presents a particular danger
12 for compulsive gamblers. As was recently pointed out by the American Psychiatric Society: “Internet
13 gambling, unlike many other forms of gambling activity, is a solitary activity, which makes it even
14 more dangerous; people can gamble uninterrupted and undetected for unlimited periods of time.”
15 Indeed, the problems associated with pathological and problem gamblers, a frighteningly-large
16 percentage of which are young people, are well-established and can be measured in the ruined lives of
17 both the gamblers themselves and their families. *Id.*

18 24. **Fraud.** The potential for fraud connected with casinos and bookmaking operations in
19 the virtual world is far greater than in the physical realm. Start-up costs are relatively low, and cheap
20 servers and unsophisticated software are readily-available. Like scam telemarketing operations, on-line
21 gambling establishments appear and disappear with regularity, collecting from losers and not paying
22 winners, and with little fear of being apprehended and prosecuted. Through slight alterations of the
23 software, unscrupulous gambling operations manipulate the odds in their favor, make unauthorized
24 credit card charges to the accounts of unsuspecting gamblers, or alter their own accounts to skim
25 money. *See, e.g.,* www.wizardofodds.com/casinos/blacklist.html (describing proof of fraud at
26 numerous Internet casinos). There is also a danger that hackers can manipulate the online games in
27 their favor or can steal credit card or other information about other gamblers using the site. Ex. ____.

28

1 **25. Potential for Organized Crime.** The Department of Justice is concerned about the
2 potential involvement of organized crime in Internet gambling. Traditionally, gambling has been one of
3 the staple activities in which organized crime has been involved, and many indictments brought against
4 organized crime members have included gambling charges. The Department of Justice has now seen
5 evidence that organized crime is moving into Internet gambling. *Id.*

6 **26. Money Laundering and Internet Gambling.** On-line gambling businesses provide
7 criminals with an easy and excellent vehicle for money laundering. This is due in large part to the cash-
8 intensive nature of the industry, and the volume, speed, and reach of Internet transactions. (It is a fact
9 that money launderers have to go to financial institutions to conceal their illegal funds and to recycle
10 those funds back into the economy for their use. Because criminals are well aware of the fact that banks
11 are now subject to greater scrutiny and regulation, they have – not surprisingly – turned to other non-
12 bank financial institutions to launder their money.) On-line casinos are a particularly inviting target
13 because, in addition to using the gambling that on-line casinos offer as a way to hide or transfer money,
14 on-line casinos offer a broad array of financial services to their customers, such as providing credit
15 accounts, fund transmittal services, check cashing services, and currency exchange services.
16 Individuals wanting to launder ill-gotten gains through an on-line casino can do so in a variety of ways.
17 For example, a customer could establish an account with a casino using illegally-derived proceeds,
18 conduct a minimal amount of betting or engage in offsetting bets, and then request repayment from the
19 casino, thereby providing a new “source” of the funds. If a gambler wants to transfer money to an
20 inside source in the casino, he can just play until he loses the requisite amount. Similarly, if an insider
21 wants to transfer money to the gambler, perhaps as payment for some illicit activity, he can rig the game
22 so the bettor wins. The anonymous nature of the Internet and the use of encryption make it difficult to
23 trace the transactions. Further, the gambling business may not maintain the transaction records, in
24 which case tracing may be impossible. While regulators (in the United States) can visit physical
25 casinos, observe their operations, and examine their books and records to ensure compliance with
26 regulations, this is far more difficult, if not impossible, with virtual casinos. *Id.*

27 **27. Advertising for Internet Gambling.** In addition to on-line gambling itself, the United
28 States government is also concerned about the substance and scope of advertising for on-line gambling.

1 Such advertisements are omnipresent on the Internet, in print advertisements, and over the radio. The
2 United States Federal Trade Commission recently looked at this issue and found, not surprisingly, that
3 advertisements for gambling over the Internet appear even on Websites oriented towards children. The
4 sheer volume of advertisements for internet sports books and online casinos is troubling because it
5 misleads the public to believe that such gambling is legal, when in fact, it is not. Many of these
6 advertisements affirmatively foster that erroneous belief. Some states which outlaw the promotion of
7 gambling have taken action to curtail these advertisements. For instance, in December 2001, the
8 Colorado Attorney General and the Colorado Limited Gaming Control Commission sent notices to
9 certain radio operators asking them to stop broadcasting advertisements for Internet casinos and sports
10 bookmaking operations. Similarly, in February 2002, the California Horse Racing Board and the
11 California Broadcasters Association sent notices to every radio and television station in California to
12 stop running advertisements for illegal off-shore wagering services. (DOJ Malcolm Testimony).

13 **B. Internet Gambling Is Addictive to Our Youth**

14 28. In an article written by Tom Weir and published in USA Today on August 22, 2003, the
15 addictive threat of Internet gambling to teenagers and college students was discussed. Ex. ____.
16 According to Arnie Wexler, who runs a national hotline for problem gamblers:

17 “Internet gambling is probably the most dangerous thing we’ve got
18 going at this time “It’s available 24 hours a day. You can do it in
your pajamas or your birthday suit.”

19 See August 22, 2003 USA Today article attached as Ex. __ to Appendix. According to Ed Looney,
20 director of the New Jersey Council on Compulsive Gambling: “The No. 1 form of problem gambling
21 for college students is Internet betting on sports.” At the Algamus Recovery Center in Anna Maria,
22 Florida director Rick Benson says that the treatment facility for gambling addicts has seen a 25%
23 increase in Internet-related cases in the last two years. Benson says the majority are white, college-
24 educated males, “with some high level of competitive sports participation in their background.” *Id.*

25 29. The August 22, 2003 USA Today article also points to the growing concern that online
26 gambling may create more gambling addicts. It’s very easy for a young person to take a parent’s credit
27 or debit card and open an account to bet online. The Federal Trade Commission last year reported an
28 informal survey of 100 gambling websites found young people could gain easy access, that warnings on

1 underage gambling generally were hard to find and that 20% of the Websites had no warnings. Internet
2 gambling is “so new that even if there were a whole bunch of pathological (Internet) gamblers, we
3 wouldn’t know about them,” says Christine Reilly of Harvard University’s Institute for Research on
4 Pathological Gambling and Related Disorders. A 2001 study by the Harvard institute suggests young
5 computer users have an increased risk of becoming problem gamblers. The study found that 5% to 6%
6 of college-age and younger people are “pathological” in their betting – gambling to recoup losses,
7 spending money they don’t have, unable to stop– compared with 1% to 2% of the general population.
8 That same unknowing attitude is prevalent among young Internet gamblers, says Pat Fowler, executive
9 director of the Florida Council on Compulsive Gambling. “A lot don’t even realize it’s illegal to do it,”
10 Fowler says of the rarely prosecuted crime of sports betting. “They go into it thinking that, because it’s
11 available on the Internet, it must be legal. It tends to be the primary source of wagering for college
12 students, especially for sports wagers. (Online) they don’t have the fear of placing bets with a bookie,
13 which most know is illegal.” Of the nearly 7,000 callers to the helpline of Fowler’s organization last
14 year, 7% from all age groups said their gambling debts were \$175,000 or more, presumably including
15 Internet gambling. Identification of people with Internet gambling problems is so new, there aren’t
16 many statistics solely pertaining to that form of betting. *Id.*

17 30. Also, according to the August 22, 2003 USA Today article, the secrecy and accessibility
18 of Internet gambling also make it easier for athletes to gamble on events they participate in. In 1998, a
19 University of Michigan study found 35% of 758 student-athletes surveyed had gambled on sports and
20 that 5% of the males had either provided inside information for gambling purposes, bet on their own
21 games or accepted money to play poorly. In 2000 a University of Cincinnati study found 25.5% of the
22 648 Division I basketball and football players surveyed had gambled on college sports events, 3.7% on
23 their games, and 0.5% had accepted money to play poorly. *Id.*

24 31. According to a February 6, 2002 article written by Sameh Fahmy of the Gannett News
25 Service in USA Today, Internet gambling is growing in popularity, raising the odds that people –
26 especially the young and women – might become addicted. Ex. _____. A 2002 report issued this month
27 by The River City Group, a St. Charles, Mo., consulting firm, estimates the number of Americans
28 gambling on the Internet will more than triple by 2004, from 4 million to 15 million. Ex. _____. What’s

1 more, gambling sites will generate \$6.3 billion in 2003, up from \$651 million in 1998. Ex. _____. Roy
2 Baas, state coordinator for northeast Louisiana’s gambling services, said Internet gambling is
3 particularly dangerous because of its continuous availability and solitary nature. “It’s mesmerizing,”
4 Baas said, “and anybody can get caught in it.” Ex. _____. Also according to the February 6, 2002
5 article, The American Psychiatric Association warned in January 2002 that in virtually all studies of
6 gambling, high school and college-aged people show the highest rates of problems. Ex. _____. Dr. Sheila
7 Blume, chair of the APA committee that issued the advisory on Internet gambling, said young people –
8 many of whom have access to credit cards – are particularly susceptible because they use the Internet
9 more than any other age group. “This is a new kind of availability of gambling, which has no age
10 restriction, no time restriction and no fairness restriction in many cases,” Blume said. Ex. _____.
11 According to the APA, 10% to 15% of young people surveyed reported having significant gambling
12 problems. The APA notes that 1% to 6% of young people can be classified as pathological gamblers.
13 *Id.*

14 **C. Internet Gambling Preys on Seniors**

15 32. Gambling addiction is a significant problem in the United States impacting adults of all
16 ages and their families. Until recently legal casino and sports betting were limited to two states. The
17 traditional game of chance for seniors is bingo, a pastime that serves as a recreational event in many
18 communities. The growth of riverboat and Indian casinos, state and national lotteries, and Internet
19 access to off-shore sports and parlor betting, has dramatically increased access for all adults including
20 seniors. Older adults are, perhaps, more vulnerable than other age groups given their greater
21 dependence on fixed incomes and more limited ability to recover to secure debt or recover from
22 gambling losses.

23 33. According to an April 2, 2001 article by Associated Press published in the St. Petersburg
24 Times, experts on compulsive gambling are alarmed. Ex. _____. They worry that senior gamblers,
25 many of them on fixed incomes, are more vulnerable to financial devastation than younger gamblers
26 and less willing to seek timely help for addiction. *Id.* “A 30-year-old can make it back. If a 75-year-
27 old loses everything, they’re dead in the water,” said Ron Karpin, a specialist in senior gambling with
28 the Council on Compulsive Gambling of New Jersey. “I know the pain associated with this disorder in

1 this age group,” Pat Fowler, executive director of the Florida Council on Compulsive Gambling said.
2 “They are thinking, ‘How could this happen to me? I did everything right. I worked, I saved, I took
3 care of my family.’” “The shame associated with what they see as failure of an entire life is so
4 devastating for them,” Fowler added. “No one should have that legacy after a productive, well-spent
5 life, simply because they fall prey to an addiction.” Experts like Karpin and Fowler think senior
6 gamblers merit special attention because the consequences of compulsive gambling can be so severe.

7 34. Internet Casinos are preying on our older citizens. For example, one Website which
8 comes up third on the list of websites when one searches under the word “gambling” on Google’s
9 search engine, gamblingtimes.com, promotes Internet gambling as good for seniors in an article
10 entitled: For Senior Citizens: - Why Gambling On The Internet is Good For You! Ex. _____. The
11 article, published alongside dozens of advertisements and links to unlicensed Internet gambling
12 businesses, states:

13 So What Does This Have to Do With the Internet?

14 We have shown that gambling can be good for your mental and physical
15 health. This holds true wherever you gamble, whether in a casino, in a
16 friend’s home, or over the Internet. So what are the unique benefits of
gambling over the Internet for senior citizens?

17 For senior citizens, there are many reasons for turning to the Internet to
18 gamble. Today, using the Internet, seniors can enjoy various games
19 without having to drive long miles to reach a casino. They don’t have to
endure the hassle of airport parking and lugging luggage to a Las Vegas
or Atlantic City hotel. Indeed, the dollars saved on the cost of airfare
and hotel rooms alone, can be a good stake for gambling on the Internet.

20 Internet gambling is especially attractive to handicapped senior citizens.
21 For those who require a wheelchair, or suffer other disabilities, there is a
22 certain “luxury” and comfort in being able to participate in your own
home or retirement facility. Everything you need is close at hand and
it’s easy to leave the game when you need to tend to your personal
needs.

23 The noise of the casino can be disturbing to many senior citizens.
24 (Sometimes I think some casinos have an ulterior motive in making the
25 casino as noisy as possible). Instead, in the comfort of your own home,
26 you can select your own choice of background music from a stereo or
radio. Want to take a break, have a snack? No problem; it’s easy in your
own home. These are amenities that are particularly appealing to us
senior citizens.

27 While the size and numbers of gambling casinos have been growing
28 throughout the world, online casinos have been literally exploding! All

1 you need is a computer with access to the World Wide Web, and you can
2 tune in to a variety of online casinos.

3 35. Online casinos offer virtually every form of gambling; betting on sporting events,
4 blackjack, slots, video poker, and roulette. There are Internet card rooms that specialize in poker; Texas
5 hold'em, 7-card stud (both hi and hi-lo), and Omaha (hi and hi-lo). Limits range from as low as \$0.25-
6 \$0.50 to as high as \$20-\$40. On many of the online sites you can practice for free, and participate in
7 discussions in a chat room for poker players.

8 **D. Internet Gambling Deprives Local Governments of License and Tax
9 Revenues**

10 36. Internet gambling also drains tax revenues from properly licensed and regulated
11 California Indian casinos and the California State Lottery tax revenues that would otherwise accrue to
12 state educational facilities, or could be used to cover the costs of dealing with the social ills caused by
13 gambling.

14 37. In February 2004, the California Legislative Analyst's Office ("LAO") analyzed
15 revenues expected to be received, and funds to be spent from such revenues, from taxes and licensing
16 fees on legitimate, legal controlled gambling within the State of California set out in the 2004-05
17 Budget Bill. Ex. _____. [See LAO Analysis of the 2004-05 Budget Bill attached hereto as Ex. ___ to
18 Appendix (LAO Analysis)]. According to the LAO, the California Gambling Control Commission
19 (CGCC) (i) monitors and enforces the terms of tribal-state gaming compacts (including the
20 administration and distribution of funds received by the state as a result of Indian gaming activities), (ii)
21 licenses and regulates card rooms, and (iii) provides oversight for specified aspects of horse track
22 betting. The Governor's budget proposed \$52 million in expenditures (\$46 million from the Indian
23 Gaming Revenue Sharing Trust Fund, \$4 million from the Indian Gaming Special Distribution Fund,
24 and \$2 million from the Gambling Control Fund) and 46 positions for support of the commission and its
25 activities. In anticipation of renegotiated revenue sharing agreements with tribes, the Governor's
26 budget also assumed \$500 million in new revenues to the General Fund. Ex. _____. [LAO Analysis.]

27 38. **Tribal-State Gaming Compacts.** As a result of the passage of Proposition 1A in March
28 2000, Class III gambling (such as slot machines and banked or percentage card games) became legal on
California Indian land for those tribes that enter into a tribal-state compact approved by the Legislature,

1 the Governor, and the federal government. These compacts lay out the legal relationship between the
2 tribes and the state with respect to Indian gambling. According to the commission, there are currently
3 109 federally recognized tribes in California, and 64 of these tribes have tribal-state gaming compacts
4 that last until at least 2020. Of those 64 tribes, 51 are currently operating casinos in California. In
5 March 2003, the Davis administration entered renegotiations with the gaming tribes in an effort to
6 generate \$680 million in new General Fund revenues. No tribes with existing compacts agreed to
7 renegotiate arrangements. The prior administration, however, did come to new agreements with three
8 tribes. The Legislature approved these agreements last year. Unlike the prior compacts, the new
9 compacts *require the payments of up to 5 percent of the tribes' winnings* to the General Fund. *Id.*

10 39. **Existing Revenue Payments.** Currently, pursuant to all but the three most recent
11 compacts, tribes pay more than \$130 million annually to the state for the right to offer Class III
12 gambling. These revenues are not deposited into the General Fund. Instead, the use of the revenues is
13 restricted to specified uses: Revenue Sharing Trust Fund. This includes \$46 million annually in
14 licensing fees to operate gaming machines. These funds are distributed to tribes with no gaming or
15 those operating less than 350 slot machines. Special Distribution Fund. This includes \$86 million in
16 fees, based on the average net win of machines in operation as of September 1, 1999.

17 40. Revenues to the Special Distribution Fund are dependent on the number of slot machines
18 in operation as of September 1, 1999. Tribes contribute revenues each quarter to the fund, *up to 13*
19 *percent of the average net win from these machines*. Tribes are expected to contribute \$86 million to
20 the Special Distribution Fund in the budget year. The fund is subject to legislative appropriation for the
21 following statewide purposes: Reimbursement for state regulatory costs associated with implementation
22 of the compacts: Grants for *gambling addiction programs*. Grants to state and local agencies affected
23 by tribal government gaming; payment of shortfalls that may occur in the Revenue Sharing Trust Fund.;
24 and any other purpose specified by the Legislature. Courts have ruled that, since this broad statement
25 follows four specific statements related to gambling, all of the funds must be used for gambling-related
26 activities. In 2003-04, the Legislature appropriated \$94 million from the Special Distribution Fund in
27 2003-04 as follows: About \$15 million was spent on gambling regulatory activities. Chapter 210,
28 Statutes of 2003 (AB 673, Horton), transferred \$51 million on a one-time basis from the Special

1 Distribution Fund to the Revenue Sharing Trust Fund to ensure that eligible Indian tribes received the
2 maximum payments allowed (\$1.1 million). Chapter 210 also established the Office of Problem and
3 Pathological Gambling in the Department of Alcohol and Drug Programs (DADP) to develop a problem
4 gambling prevention program. The DADP was provided \$3 million for the program. The
5 administration proposes trailer bill language to repeal Chapter 210 and eliminate a scheduled \$3 million
6 appropriation for the same purpose in the budget year. Chapter 858, Statutes of 2003 (SB 621, Battin),
7 appropriated \$25 million from the Special Distribution Fund to local government agencies affected by
8 tribal gaming. The Special Distribution Fund must make up the difference between the \$1.1 million
9 maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund. *Id.*

10 41. Based on then current information, total resources in the Special Distribution Fund in
11 2004-05 would be roughly \$150 million (\$86 million in payments from tribes and revenues from past
12 years). The budget proposes expenditures of \$13 million for Indian gaming regulatory activities. The
13 administration, however, does not propose expenditures for the remaining \$137 million in the fund. In
14 reviewing the options for spending the fund balance, there are many possible uses. ***The impacts of***
15 ***gambling are widespread, even in communities without casinos. Costs related to public safety, road***
16 ***maintenance, and gambling addiction, for instance, affect many cities, counties, and the state. The***
17 ***costs of addressing even one of these areas would easily exceed the Special Distribution Fund's***
18 ***funding. Id.***

19 42. Given the budget situation and broad parameters of the fund, the LAO recommended
20 using the \$137 million for spending which both meets the requirements of the fund and helps the budget
21 situation. For instance, funds currently spent by the General Fund on gambling-related expenses could
22 be replaced with Special Distribution Fund revenues – generating General Fund savings. The LAO
23 outlined two such possible uses for the fund revenues as illustrative examples: Public Safety Demands.
24 Gambling activities increase the needs for law enforcement services throughout the state. We therefore
25 believe the Special Distribution Fund could appropriately be used to address these public safety
26 demands. In total, cities and counties spend billions of dollars annually on public safety. The state
27 contributes a small amount of this total annually (\$100 million from the General Fund) through the
28 Citizens' Option for Public Safety (COPS) program. If the Legislature continues to fund the COPS

1 program, a portion of the funding could be directed from the Special Distribution Fund. Given the large
2 amounts of money being spent, it is reasonable to assume that such a small COPS-related portion of
3 total public safety expenditures is already spent on gambling-related activities.

4 43. **Treat Gambling Addiction – Heading.** There are currently many individuals with
5 gambling problems. It is reasonable to assume that some individuals that suffer from this problem seek
6 mental health services. Currently, several hundreds of millions in General Fund dollars are allocated to
7 counties to provide mental health services at the local level. As with the public safety example above, a
8 portion of these General Fund expenditures could be replaced with Special Distribution revenues. *Id.*

9 44. Internet gambling avoids these licensing fees and revenues, and thus deprives California
10 of funds that otherwise would be available for the purposes set forth above.

11 45. **Internet Gambling Deprives California Indian Tribes of Exclusivity and the State**
12 **of California Revenues.** On June 21, 2004 Gov. Arnold Schwarzenegger signed new deals with five
13 California Indian tribes that give them the right to operate an unlimited number of slot machines. “The
14 new agreement respects the tribes’ sovereignty,” he said. “It protects their exclusive gaming rights, and
15 it begins a new financial partnership between the tribes, local communities and the great state of
16 California.” The five tribes are the Rumsey Band of Wintun Indians in Yolo County, the United
17 Auburn Indian Community in Placer County and three San Diego County tribes. The deals, which must
18 be approved by the Legislature and the federal Department of the Interior, would replace the 20-year
19 compacts the tribes signed in 1999. Under the deals, the current limit of 2,000 slot machines per tribe in
20 the compacts would be lifted, allowing the tribes to have as many machines as they think their markets
21 will support. In return, the tribes would underwrite a \$1 billion bond, making payments to the state
22 totaling \$100 million a year for the next 18 years, when the bonds would be retired. In the last seven
23 years of the new compacts, which expire in 2030, the tribes would continue to pay \$100 million a year.
24 Bond proceeds would be used for transportation projects around the state. In addition, tribes would pay
25 a per-machine license fee on any new slots they install, ranging from \$11,000 to \$25,000. The
26 additional money could amount to \$150 million a year if each of the five tribes added 2,000 machines.
27 That amount, which officials estimated would come to approximately **15 percent** of the tribe’s revenue
28

1 on the new slots. Ex. ____ [June 22, 2004 *Sacramento Bee* article written by Steve Weigand attached
2 hereto as Ex. __ to Appendix.]

3 46. Internet Gambling Websites, their co-conspirators and abettors, illegally take money
4 from California citizens, without paying 15% of their revenues to the state of California. Plaintiffs
5 believe that this amounts to tens if not hundreds of millions per year. In addition, the California Indian
6 Tribes are denied their exclusivity to operate gambling in California. Local governments also lose local
7 taxes generated from the California Tribes as well as visitors to the Indian Casinos. Therefore, the
8 general public is deprived of the protections of the gambling laws and the revenues generated from legal
9 gambling, as well as being saddled with the social and economic costs of gambling.

10 **E. Internet Gambling Is Illegal Under California Law**

11 47. California law bans conducting, playing or betting on (i) most lotteries; (ii) a few
12 specific games such as faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-
13 a-half, twenty-one and hokey-pokey; (iii) any banking or percentage game played with cards, dice or
14 any device; and (iv) most sports bookmaking bets and wagers. The basic California gambling
15 provisions are in §§319-322 (Lotteries) and 330-337 (Other Gamblings) of the California Penal Code.

16 **1. Lotteries Are Prohibited Under California Law**

17 48. Article IV, §19 of the California Constitution bans most private lotteries. The drawing
18 of a lottery is also specifically prohibited by California statute:

19 Every person who contrives, prepares, sets up, proposes, or draws any
20 lottery, is guilty of a misdemeanor. [v]

21 Penal Code §320. The selling of lottery tickets or chance is prohibited in California:

22 Every person who sells, gives, or in any manner whatever,
23 furnishes or transfers to or for any other person any ticket, chance, share,
24 or interest, or any paper, certificate, or instrument purporting or
25 understood to be or to represent any ticket, chance, share, or interest in,
26 or depending upon the event of any lottery, is guilty of a misdemeanor.
27 [v]

28 Penal Code §321. So too, aiding or assisting or advertising a lottery is prohibited in California:

Every person who aids or assists, either by printing, writing,
advertising, publishing, or otherwise in setting up, managing, or
drawing any lottery, or in selling or disposing of any ticket, chance, or
share therein, is guilty of a misdemeanor. [v]

1 Penal Code §322.

2 49. Penal Code §319 defines a lottery:

3 A lottery is any scheme for the disposal or distribution of
4 properly by chance, among persons who have paid or promised to pay
5 any valuable consideration for the chance of obtaining such property or a
6 portion of it, or for any share or any interest in such property, upon any
7 agreement, understanding, or expectation that it is to be distributed or
8 disposed or by lot or chance, whether called a lottery, raffle, or gift
9 enterprise, or by whatever name the same may be known. [v]

7 50. A game is not to be regarded as one of skill merely because that element enters into the
8 result in some degree, or as one of chance solely because chance is a factor in producing the result. The
9 test of the character of a game or scheme as one of chance or skill is, which of these factors is dominant
10 in determining the result?" *People v. Settles*, 29 Cal. App. Supp. 781 (1938).

11 **2. Most Casino, Card and Dice Games Are Prohibited in California**

12 51. Casino, card and dice games are prohibited in California. Penal Code §330 states:

13 Every person who deals, *plays*, or carries on, opens, or *causes to be*
14 *opened*, or *who conducts*, either as owner or employee, whether for hire
15 or not, any game of faro, monte, roulette, lansquenet, rouge et noire,
16 rondo, tan, fan-tan, seve n-and-a-half, twenty-one, hokey-pokey, or any
17 *banking or percentage game* played with cards, dice, or any device, for
18 money, checks, credit, or other representative of value, and every person
19 *who plays or bets* at or against any of those prohibited games, is guilty
20 of a misdemeanor, and shall be punishable by a fine not less than one
21 hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or
22 by imprisonment in the county jail not exceeding six months, or by both
23 the fine and imprisonment. [v]

19 52. A banking game is one in which the "house" or "bank" is the principal participant in the
20 game, taking on all players, paying all winners and collecting from all losers. A percentage game is one
21 in which the "house" does not directly participate in the game, but collects a percentage from it which
22 may be computed from the amount of bets made, winnings collected, or the amount of money changing
23 hands. *Sullivan v. Fox*, 189 Cal. App. 3d 673, 678-679 (1987), 235 Cal. Rptr. 5. A controlled game
24 does not include games played with cards in private homes or residences, in which no person makes
25 money for operating the game except as a player. Penal Code §337j(c)(2)(D).

26 **3. Sports Betting and Wagering Is Prohibited in California**

27 53. Sports bookmaking, bets or wagers are prohibited in California:

28

1 Every person, 1. Who engages in pool selling or bookmaking,
2 with or without writing, at any time or place; or ... 6. [w]ho lays, makes,
3 offers or accepts any bet or bets, or wages or wagers, upon the result, or
4 purported result, of any trial, or purported trial, or contest, or purported
5 contest, of skill, speed or power of endurance of man or beast, or
6 between men, beasts, or mechanical apparatus, is punishable by
7 imprisonment in the county jail for a period of not more than one year or
8 in state prison. [v]

9 Penal Code §337a.

10 **4. Conducting or Carrying on a Controlled Game Without a License**
11 **is Prohibited in California**

12 54. A controlled game may not be conducted or played, in the privacy of one's home,
13 without a license. Penal Code §337j provides:

14 (a) It is unlawful for any person, as owner, lessee, or employee,
15 whether for hire or not, either solely or in conjunction with others, to do
16 any of the following without having first procured and thereafter
17 maintained in effect all federal, state, and local licenses required by law:

18 (1) To deal, operate, carry on, conduct, maintain, or expose for
19 play in this state any controlled game.

20 * * *

21 (d) Any person who violates, attempts to violate, or conspires to
22 violate this section shall be punished by imprisonment in a county jail
23 for not more than one year, or by a fine or not more than five thousand
24 dollars (\$5,000), or by both that imprisonment and fine.

25 55. The statute defines a controlled game as any poker as PaiGow, and any other game
26 played with cards as tiles, or both, approved by the Division of Gambling control, and any game of
27 chance, including any gambling device, played for currency, check, credit, or any other thing of value
28 that is not prohibited or made unlawful by statute or local ordinance. Penal Code §337j(i)(c).

5. Aiding and Abetting Illegal Gambling Violates California Law

56. Aiders and abettors to illegal gambling are guilty of violating the California's gambling
prohibitions. California Penal Code classifies parties to a crime as either principals or accessories.
Under the Code, one commits a crime whether one directly commits the act constituting the offense, or
aids and abets in its commission. One who aids or abets another in the commission of a crime may be
criminally liable for the acts of the other person. Therefore, anyone who offers advice on how to

1 commit a crime or simply lends someone the tools with which to commit the crime may be equally
2 liable under the California Penal Code. California Penal Codes §§30 and 31 provide:

3 30. The parties to crimes are classified as:

4 1. Principals; and,

5 2. Accessories.

6 31. All persons concerned in the commission of a crime, whether it
7 be felony or misdemeanor, and whether they directly commit the act
8 constituting the offense, or aid and abet in its commission, or, not being
9 present, have advised and encouraged its commission, and all persons
10 counseling, advising, or encouraging children under the age of fourteen
11 years, lunatics or idiots, to commit any crime, or who, by fraud,
12 contrivance, or force, occasion the drunkenness of another for the
13 purpose of causing him to commit any crime, or who, by threats,
14 menaces, command, or coercion, compel another to commit any crime,
15 are principals in any crime so committed. [v]

16 57. The act of advertising or knowingly providing information to assist in the commission of
17 illegal Internet gambling is a commission of the illegal act itself.

18 **6. Co-Conspiring to Gamble Violates California Law**

19 58. Conspiring with others to commit illegal Internet gambling violates California Law. A
20 conspiracy to commit a crime is akin to aiding and abetting in that it applies to a wide array of criminal
21 offenses. Conspiracy rises to the level of criminal activity when there is an agreement between two or
22 more people to commit a crime and at least one of them takes action in furtherance of the crime. Even
23 if a conspirator backs out of the plan to commit the crime, but the other conspirators continue, the one
24 who backed out is still liable under the California Penal Code (PC §§182-185). Penal Code §§182-184
25 provide, in part:

26 182. (a) If two or more persons conspire:

27 (1) To commit any crime.

 * * *

28 (5) To commit any act injurious to the public health, to public
 morals, or to pervert or obstruct justice, or the due administration of the
 laws. [v]

 * * *

 They are punishable as follows:

1 * * *

2 When they conspire to commit any other felony, they shall be
3 punishable in the same manner and to the same extent as is provided for
4 the punishment of that felony.

4 * * *

5 When they conspire to do any of the other acts described in this
6 section, they shall be punishable by imprisonment in the county jail for
7 not more than one year, or in the state prison, or by a fine not exceeding
8 ten thousand dollars (\$10,000), or by both that imprisonment and fine.

9 184. No agreement amounts to a conspiracy, unless some act, beside
10 such agreement, be done within this state to effect the object thereof, by
11 one or more of the parties to such agreement and the trial of cases of
12 conspiracy may be had in any county in which any such act be done.

13 59. Thus, where one agrees to and does advertise, promote or otherwise facilitate illegal
14 online gambling, with the online gambling business, and that advertisement or promotion or
15 encouragement takes place within California, then the agreement amounts to a conspiracy.

13 VI. DEFENDANTS' WRONGFUL CONDUCT

14 A. Defendants Posted Sponsored Advertisements In California for 15 Unlicensed Gambling Websites

16 60. Illegal Internet gambling in California is made possible only by the cooperation and
17 participation of various companies acting in California to provide necessary intermediary services for
18 Internet gambling sites. In particular, for Internet gambling facilities to function they need to attract
19 California customers to their Websites. The most viable means of attracting these customers is through
20 the use of Internet search engine advertising on defendants' websites and affiliates.

21 61. Defendants both advertise and market Internet gambling to California residents in
22 California, and aid and abet in the violation of California's gambling laws by California residents and
23 unlicensed Internet gambling establishments.

24 62. According to ComScore Network's qSearch analysis for April 2004, the AdFocus
25 ranking of Internet search engines web pages is as follows:

26	Yahoo sites	113,190,000 unique users
27	Google sites	65,996,000 unique users
28	Terra Lycos	38,390,000 unique users
	Excite Network	29,047,000 (now owned by Ask Jeeves)
	CNET	24,041,000 unique users

1	AskJeeves	17,247,000 unique users
2	InfoSpace Network	14,698,000 unique users

3 63. Search results on these Websites generally consist of two major types: “Editorial results”
4 or bulk search engine results (which sometimes includes advertising because of the use of “paid
5 inclusion” programs), and “Paid” or “Sponsored” results which represent the basic paid advertising
6 results provided by the search engine. Paid results ensure top placement in a special section of the
7 search page results. Internet search engines have additional types of advertising programs which may
8 include banner advertisements and other graphical devices designed to attract consumer interest. The
9 ultimate goal for advertisers is for consumers to “click-through” – that is to notice the advertisement
10 and to click on the advertisement so as to draw the consumer to a particular Website where the
11 advertisers can sell the consumer goods and services. As explained on Overture’s Website:

12 Pay-For-Performance Search allows you to effectively connect with
13 customers searching online for your products and services. You select
14 words that relate to your business and your Website appears in search
15 results on Overture’s partner sites when search users enter those words.
16 You pay for each sales lead, not each impression, leading to a high
17 return on your advertising investment. You also control your costs by
18 determining the price you are willing to pay per lead - the more you pay,
19 the higher your listings appear within the search results and the greater
20 the number of potential customers that see your listing.

21 64. For most legitimate legal products, defendants’ price per lead or click-through fee is
22 relatively modest. For example, under the search term “automobile” the highest price bid on Overture
23 was recently 78 cents. Ex. _____. For “home repair” the highest price per lead was recently \$1.12. For
24 “groceries” the highest price per lead is 18 cents; Ex. ____, (and “bottled water” was recently 56 cents.)
25 Ex. _____. There is no obvious increase in this price for the advertisement of legal vices. For example,
26 the search term “Tequila” was recently 63 cents per lead, (Ex. _____) and “Cigarettes” were recently
27 \$1.09 per lead.

28 65. Illegal Gambling is very different. Under the search term “Internet gambling,” the
highest price per lead on Overture.com was recently an astounding \$12.97 per click through for SBG
Global Internet Gambling (www.betsbg.com). Overture _____. That is, for every time an Internet user
clicks on SBG Global Internet to go to that Website after using this search term, SBG is willing to pay
Overture \$12.97. This is not a spurious result as the next four highest price click-through rates for this

1 search, including “planetluck.com,” “cyberbingo.com,” “goldenpalace.com,” “cystalpalacecasino.com,”
2 were all at or above \$12.00 per click-through. Overture _____. Similarly, for the search “Sports book,”
3 SBG Global Sportbook bid \$12.99 per click through. Overture _____. For “Casino Gambling,” Crystal
4 Palace bid \$10 for each click through. Overture _____. All of these Websites offer illegal gambling to
5 California residents.

6 66. Defendants also deceptively list numerous illegal Internet gambling casinos when an
7 Internet searcher types in the phrase “legal gambling.” For example, on Overture’s Website the phrase
8 “legal gambling” recently returned a slew of illegal advertisements for Internet gambling Websites.
9 Few, if any, of the Websites provide any disclosure that gambling is in fact illegal in all 50 states.
10 Similarly, on Google’s search engine a request of “legal gambling” returns as its top sponsored link
11 www.GoldenPalace.com with a byline entitled “Legal Online Gambling.” Google _____. Again, there
12 is no disclosure that the gambling provided on this Website is illegal in California and in all 50 states.

13 **B. Defendants’ Advertising is Expressly Directed at California Locations**
14 **Where Gambling is Illegal**

15 67. These paid search results are targeted at specific locations using geo-tracking and other
16 information technologies such that companies purchase advertising for *a particular country and/or*
17 *region*. Companies that wish to advertise on computers located in the United States or California *must*
18 *purchase that right* from the defendants at a considerable premium over advertisements in other
19 jurisdictions. Many defendants provide even more localized geo-tracking technologies so that
20 advertisements can be focused on a particular region within a state. For example, Google permits
21 advertisers to advertise by regional areas such as the “State of California” or sub-regions in the state
22 such as Bakersfield, Los Angeles, San Francisco-Oakland-San Jose. Google _____.

23 68. The defendants conspired with the Internet gambling Websites to provide Internet
24 advertisements to areas such as California in which Internet gambling is illegal with the knowledge and
25 intention of persuading and directing California residents to visit these illegal gambling Websites so as
26 to illegally gamble in California.

C. Specific Examples of Defendants’ Wide-Scale Illegal Advertising Services in California for Internet Gambling Websites.

69. As described in detail below, each of the defendants provides substantial illegal advertising services for Internet gambling Websites. In particular, each of the defendants provided sponsored search results which included a myriad of Internet gambling Websites as follows:

70. Google advertises illegal Internet gambling on its www.Google.com and affiliated search engine pages. Attached as Ex. “Google ____” is a print out of the Google search results for “Texas Hold’em” taken on June 25, 2004. This search includes numerous paid advertisements or (“Sponsored Links”) including as the top listing “Play Texas Hold’em” with an address of www.texas-holdem-poker-strategies.com which is the portal and homepage for numerous illegal Internet gambling Websites including “Casino on Net.” This search also returned advertisements for the Website www.pacificpoker.com which is an illegal gambling Website. The following chart provides additional examples of Google’s illegal advertisement of Internet gambling Websites as demonstrated by the attached exhibits:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
“7 card stud”	June 25, 2004	www.partypoker.com	Google
Casino Downloads	June 2, 2004	www.DailyCasinoWinner.com	Google
MLB Bet	July 1, 2004	www.tradebetx.com	Google
Hockey Bet	June 25, 2004	www.Wagerstreet.com	Google
Tennis Bet	June 25, 2004	www.tcbets.com	Google
Racebook	June 24, 2004	www.racebook.com	Google
Baseball bet	June 25, 2004	www.tradebetx.com	Google
Casino	July 12, 2004	www.Best-on-net.com	Google

71. Yahoo advertises illegal Internet gambling on its www.Yahoo.com and affiliated search engine pages. For example, attached as Exhibit)____ “Yahoo _____” is a printout of Yahoo search

1 taken for the term “Internet gambling” taken on June 1, 2004. This search returned paid “Sponsor
2 Results” including “Casino On Net: Up to \$200 Sign-Up Bonus.” Clicking on this link takes your
3 browser to www.888Casino.com which is an Internet gambling Website with links to additional Internet
4 gambling Websites. The following chart provides additional examples of the Yahoo Networks illegal
5 advertisement of Internet gambling Websites:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit
Internet Casino	June 2, 2004	www.freewebs.com	Yahoo
Casino Gaming Online	June 25, 2004	www.entercasino.com (www.888Casino.com)	Yahoo
Lottery	July 2, 2004	www.dollarluck.com	Yahoo

11 72. AltaVista, a wholly owned subsidiary of Overture, also advertises illegal Internet
12 gambling on the www.AltaVista.com and affiliated search engine pages using advertisements obtain
13 from Yahoo and Overture. For example, attached as Ex. __ Overture 1 is a print out of the AltaVista
14 search for “Racebook” taken on June 24, 2004. This search returned Sponsor Results including the
15 listing for www.racebook.org which is an illegal Internet gambling site. Similarly, a recent search on
16 the term “Internet Casino” returned an advertisement for www.freewebs.com an illegal Internet
17 gambling site. Overture 2.

19 73. Overture has made massive profits advertising illegal gambling Websites on Yahoo,
20 Overture and other Yahoo affiliates’ and subsidiaries’ webpages. For example, on March 30, 2004, the
21 top Overture bids for “Keno” was \$10.06 (Overture ____); “Bingo” was \$5.24 (Overture ____); “Poker”
22 was \$7.01 (Overture ____); “Craps” was \$12.00 (Overture ____); “Slot Machines” was \$6.67 (Overture
23 ____); “Horseracing” (Overture ____); “Casino” was \$7.00 (Overture ____); “Internet Casino” was
24 \$15.00 (Overture ____); “Internet gambling” was \$12.97 (Overture ____); “Gambling” was \$8.75
25 (Overture ____). By contrast, the top bid for the search term “books” which returned legal Websites
26 was \$0.48. Overture ____.

1 74. Ask Jeeves advertises illegal Internet gambling on its www.ask.com and affiliated search
 2 engine pages. Ask Jeeves obtains advertising revenue from a wide variety of Internet gambling casinos
 3 by use of its sponsor link program and other advertising revenue sources designed to promote illegal
 4 Internet gambling in California. Attached as Ex. __ Ask Jeeves ____ is a print out of a June 29, 2004,
 5 Ask Jeeves search under the term “Gambling.” This search returned a “Featured Sponsor” of “Online
 6 Casino Gambling for Real \$ NOW” with an address of www.allslots.com. Clicking on this Webpage
 7 leads to a Website entitled “All Slots Casino – “Biggest Jackpot Casino on the Web” which is an illegal
 8 Internet gambling Website. The following chart provides additional examples of Ask Jeeves’ illegal
 9 advertisement of Internet gambling Websites:

Search Term	Search Date	Illegal Internet Gambling Site Advertiser	Exhibit
Legal Gambling	June 25, 2004	www.allslots.com	Ask Jeeves
Internet Gambling	June 25, 2004	www.allslots.com	Ask Jeeves
Online Gambling	June 25, 2004	www.888.com	Ask Jeeves
Online Gaming	June 2, 2004	www.allslots.com	Ask Jeeves
California Gambling	June 25, 2004	www.allslots.com	Ask Jeeves
Online Casino	June 25, 2004	www.gamblehouse.com www.planetluckcasino.com	Ask Jeeves
Internet Casino	June 25, 2004	www.gamblehouse.com ; www.allslots.com	Ask Jeeves
NFL Wager	June 25, 2004	www.sportsbook911.com ; www.sportingbet.usa	Ask Jeeves
TennisWager	June, 25, 2004	www.sportingbet.usa	Ask Jeeves

22 75. Defendant Jupiter, through its Internet.com and other Websites, obtains illegal
 23 advertising revenue from a wide variety of Internet gambling casinos. For example, attached as Ex. __
 24 “Jupiter ____” is a print out of the Internet.com search results for the search term “Gambling”
 25 conducted on June 29, 2004. This search returned paid advertisements for the illegal Internet gambling
 26 Website www.spinpalace.com. The following chart provides additional examples of Jupiter’s illegal
 27 advertisement of Internet gambling Websites on its Internet.com Website.
 28

Search Term	Search Date	Illegal Internet Gambling Sites	Exhibit Number
Internet Gambling	June 23, 2004	www.winnersonlinecasino.com ; www.Planetluck.com ; www.PartyPoker.com ; www.starluckcasino.com ; www.casinocashjourney.com ; www.platinumpower.com	Jupiter
Internet Gaming	June 23, 2004	www.winnersonlinecasino.com ; www.planetluck.com ; www.partypoker.com ; www.starluckcasino.com ; www.casinocashjourney.com ; www.platinumpoker.com ; www.888.com ; www.pacificpoker.com	Jupiter
Online Gambling	June 23, 2004	www.winnersonlinecasino.com ; www.planetluck.com ; www.partypoker.com ; www.starluckcasino.com ; www.casinocashjourney.com ; www.platinumpoker.com ; www.888.com ; www.pacificpoker.com	Jupiter
Casino Games	June 23, 2004	www.winnersonlinecasino.com ; www.starluckcasino.com ; www.partypoker.com ; www.planetluck.com ; www.casinocashjourney.com ; www.888.com ; www.pacificpoker.com	Jupiter
Sportsbook	June 24, 2004	www.i-sportsbook.com ; www.dimeplayer.com ; www.sportsfanatik.com ; www.youwager.com	Jupiter

76. CNET advertises illegal Internet gambling on its www.MySimon.com, www.search.com and affiliated search engine pages. Attached as Exhibit CNET ___ is a print out of the MySimon.com search results for “Gambling” conducted on June 30, 2004. This search returned “Sponsor Matches” including the listing “Spin Palace: Casino & Gaming.” Clicking on this link takes your browser to an illegal Internet gambling Website www.spinpalace.com. Similarly, on July 13,

1 2004, search under the phrase “Illegal Gambling” returned advertisements for
 2 www.sportsinteraction.com, www.888.com, and www.casinobonusonline.com, all illegal Internet
 3 gambling Websites. CNET _____. The following chart provides additional samples of CNET’s illegal
 4 advertisement of Internet gambling Websites on its Internet.com Website:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
Internet Gambling	June 30, 2004	www.Starluckcasino.com ; www.PartyPoker.com ; www.Planetluck.com ; www.spinpalace.com ; www.winnersonlinecasino.com .	CNET
Internet Gaming	June 30, 2004	www.starluckcasino.com ; www.PartyPoker.com ; www.Planetluck.com ;	CNET
Online Gambling	June 30, 2004	www.CasinoCashJourney.com ; www.888.com	CNET
Online Gaming	June 30, 2004	www.Starluckcasino.com ; www.PartyPoker.com ; www.Planetluck.com ;	CNET
California Gambling	June 30, 2004	www.allslots.com	CNET
California Gaming	June 30, 2004	www.GoldenTiger Casino.com	CNET
Sportsbook	June 24, 2004	www.i-sportsbook.com	CNET
Racebook	June 24, 2004	www.tcbets.com	CNET

77. CNET also obtains substantial advertising revenue from its Search.com Website. The
 following chart provides additional samples of CNET’s illegal advertisement of Internet gambling
 websites on its Search.com website:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
Internet Gambling	June 30, 2004	www.starluckcasino.com ; www.partypoker.com	CNET
Internet Gaming	June 30, 2004	www.starluckcasino.com ; www.partypoker.com	CNET
Online Gambling	June 30, 2004	www.starluckcasino.com ;	CNET

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
		www.partypoker.com	
Online Gaming	June 30, 2004	www.starluckcasino.com	CNET
California Gambling	June 30, 2004	www.allslots.com	CNET

78. Kanoodle advertises illegal Internet gambling on its www.Kanoodle.com and affiliated search engine pages. Attached as Ex. __ “Kanoodle ____” is a print out of the Kanoodle.com search results for the search term “Gambling” conducted on July 1, 2004. This search returned “Sponsor Links,” which included the listing “Gambling from PokerRoom” with an address of www.poker.com. Clicking on this link takes your browser to an illegal Internet gambling Website. Kanoodle ____. The following chart provides additional examples of Kanoodle’s illegal advertisement of Internet gambling Websites on its Kanoodle.com Website:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
Internet Gaming	July 1, 2004	www.goldenpalace.com ; www.sportfanatik.com ; www.allslots.com ;	Kanoodle
Online Gambling	July 1, 2004	www.goldenpalace.com ; www.sportfanatik.com ; www.allslots.com ; www.pokerroom.com ; www.platinumplay.com ; www.pacificpoker.com	Kanoodle
Online Gaming	July 1, 2004	www.goldenpalace.com ; www.sportfanatik.com ;	Kanoodle

Similar illegal advertising results were recently obtained for the search terms: “Online Casino (Kanoodle); Sportsbook (Kanoodle); Horse Racing (Kanoodle); Golf Bet (Kanoodle); Football Bet (Kanoodle); Football Wager (Kanoodle); Internet Gambling (Kanoodle).

79. Defendant LookSmart obtains illegal advertising revenue from a wide variety of Internet gambling casinos. Attached as Ex. __ “LookSmart ____” is the search result for the search term “Texas hold ‘em” conducted on June 28, 2004. This search returned paid advertisements (“Sponsor Results”),

1 which included the listing “Pacific Poker: Live Online Gaming” with an address of
 2 www.pacificpoker.com. Clicking on this link takes your browser to an illegal Internet gambling
 3 Website as provided in Ex. __ LookSmart. The following chart provides additional examples of
 4 LookSmart’s illegal advertisement of Internet gambling Websites:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
Sportbook	June 24, 2004	www.tcbets.com ; www.sportsinteraction.com ;	LookSmart
Racebook	June 24, 2004	www.tcbets.com ;	LookSmart
Golf Bet	June 24, 2004	www.sportsandcardsonline.com ; www.sportsinteraction.com ;	LookSmart
Golf Wager	June 24, 2004	www.sportsinteration.com ;	LookSmart
Football bet	June 24, 2004	www.sportsinaction.com ; www.tcbets.com	LookSmart
Gambling	June 29, 2004	www.Sportsinteraction.com ; www.planetrockcasino.com ; www.sportsbooknow.com	LookSmart
Legal Gambling	June 14, 2004	www.Casinobonus4u.com	LookSmart

16 Similar illegal advertising results were recently obtained for the search terms Internet Gambling
 17 (LookSmart); Internet Gaming (LookSmart); and Online Gaming (LookSmart).

18 80. InfoSpace advertises illegal Internet gambling on its www.InfoSpace.com and affiliated
 19 search engine pages including www.dogpile.com, www.webcrawler.com, www.metacrawler.com and
 20 through InfoSpace’s distribution partner’s Websites. Attached as Ex. __ “InfoSpace __” is a print out
 21 of the InfoSpace search result for the search term “sportsbook” conducted on June 24, 2004. This
 22 search returned paid advertisements (“Sponsor Results”) including the listing “I-sportsbook: Online
 23 Craps Gambling” “i-sportsbook” with an address of www.i-sportsbook.com which is in illegal Internet
 24 gambling site. InfoSpace _____. There were numerous other illegal gambling advertising links
 25 produced by this search result including: www.winforreal.com; www.sportsbet.com; www.tcbets.com;
 26 www.wallstreet.com; www.horseswild.com; www.probets.com; www.casinocashjourney.com; and
 27
 28

1 www.sportsbookreview.com. The following chart provides additional e xamples of InfoSpace’s illegal
 2 advertisement of Internet gambling Websites:

3 Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
4 Gambling	June 28, 2004	5 www.allslots.com ; 6 www.pacificpoker.com ; 7 www.888.com ; 8 www.winnersonlinecasino.com ; 9 www.starluckcasino.com ; 10 www.planetluck.com	InfoSpace
11 Legal Gambling	June 2, 2004	12 www.palaceofchance.com ; 13 www.casinobonus4u.com ; (all 14 illegal gambling Websites)	InfoSpace
15 Legal Gaming	June 28, 2004	16 www.sportsbetting.com ; 17 www.betonsports.com ; 18 www.palaceofchance.com ; 19 www.globalgamescasino.com ;	InfoSpace
20 Internet Gambling	June 2, 2004	21 www.casinocashjourney.com ; 22 www.gambling.omnicasino.com ; 23 www.webcasinoworld.com	InfoSpace
24 Internet gaming	June 2, 2004	25 www.casinofortune.com ; 26 www.mapau.com ; 27 www.party poker.com	InfoSpace

18 Similar illegal advertising results were recently obtained for the search terms: Online Gambling
 19 (InfoSpace); Slots (InfoSpace); Roulette (InfoSpace); Baccarat (InfoSpace); Keno (InfoSpace);
 20 Racebook (InfoSpace); Golf Bet (InfoSpace); Golf Wager (InfoSpace); Football Bet (InfoSpace); and
 21 Football Wager (InfoSpace).

22 81. Defendant Lycos obtains illegal advertising revenue from a wide variety of Internet
 23 gambling casinos. For example, attached as Ex. __ Lycos __ is a print out of the InfoSpace search
 24 results for the search term “racebook” conducted on June 24, 2004. This search returned Sponsor
 25 Results including the listing www.racebook.com which is in illegal Internet sports gambling site. The
 26 following chart provides additional samples of Lyco’s illegal advertisement of Internet gambling
 27 Websites:
 28

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
Golf Bet	June 24, 2004	www. Sportsbetting.com	Lycos
Football Bet	June 24, 2004	www.sportsbetting.com	Lycos
Football Wager	June 24, 2004	www.sportsbetting.com	Lycos
Gambling	June 29, 2004	www.starluckcasino.com ; www.7sultans.com ; www.vegaspalms.com ; www.desertdollar.com	Lycos
Internet Gambling	June 29, 2004	www.platinumpoker.com ; www.starluckcasino.com	Lycos

Similar illegal advertising results were recently obtained for the following search terms: Internet Gaming (Lycos); and Online gambling (Lycos).

82. Defendant FindWhat obtains illegal advertising revenue from a wide variety of Internet gambling Websites. For example, attached as Ex. __ “FindWhat ____” is a print out of the FindWhat search results for the search term “sportsbook” conducted on June 24, 2004. This search returned paid advertisements (“Sponsor Results”) listings for www.Dimeplay.com; www.youwager.com; www.sportsfanatik.com; www.5dimes.com; www.sportsinteraction.com; www.probets.com; www.vipsports.com; and www.ladbrokes.com - all of which are illegal Internet gambling sites. The following chart provides additional examples of FindWhat’s illegal advertisement of Internet gambling Websites:

Search Term	Search Date	Illegal Internet Gambling Site	Exhibit Number
Racebook	June 24, 2004	www.racebook.com ; www.viphorses.com ; www.greenbaycasino.com ;	FindWhat
Horse Racing	June 24, 2004	www.sportingbetusa.com ; www.youwager.com ; www.ladbrokes.com ; www.5dimes.com ; www.racebook.com ; www.bet365.com ; www.viphorses.com ; www.sportsinteraction.com ; www.fastfreecash.com	FindWhat
Gambling	July 2, 2004	www.pokerroom.com ; www.888.com ; www.firstwebcasino.com	FindWhat
Internet Gambling	June 24, 2004	www.firstwebcasino.com ; www.allslots.com ; www.casinocashjourney.com	FindWhat

Similar illegal advertising results were recently obtained for the following searches: Football Bet (FindWhat); Football Wager (FindWhat); Golf Bet (FindWhat); Golf Wager (FindWhat); Internet Gaming (FindWhat); and Online Gambling (FindWhat).

VII. CLASS ACTION ALLEGATIONS

83. Plaintiffs bring this action on their own behalf, on behalf of all other persons similarly situated, and on behalf of the general public pursuant to the provisions of C.C.P. §382, California Civil Code 1781 (“Gambler Class”). The class that plaintiff Michael Voight seeks to represent (the “Gambler Class”) is defined as:

All California residents who gambled on an illegal Internet gambling website and incurred losses therein [each found these websites as a result of advertisements contained on defendants and their affiliates web pages or search results.

84. The Classes are composed of tens of thousands of persons, the joinder of which would be impracticable. The identities of the individual members are ascertainable through defendants’ records or by public notice.

1 85. There is a well-defined community of interest in the questions of law and fact involved
2 affecting the members of the Classes. The questions of law and fact common to the Class predominate
3 over questions affecting only individual class members, and include, but are not limited, to the
4 following:

5 (a) Whether defendants' actions in promoting the defendants' gambling Websites
6 constitutes aiding and abetting of illegal gambling activities.

7 (b) Whether a conspiracy existed between the Gambling Advertisers and the
8 Gambling Websites.

9 (c) Whether a conspiracy to advertise illegal gambling in California constitutes
10 unlawful or unfair business practices under California Business and Professions Code §§17200, *et seq.*

11 (d) Whether the class is entitled to restitutionary relief.

12 (e) Whether the class is entitled to injunctive relief.

13 (f) Whether the class is entitled to declaratory relief.

14 (g) Whether the class is entitled to an award of reasonable attorneys' fees, pre-
15 judgment interest and costs of suit.

16 86. Plaintiff(s) are adequate representatives of the Class(es) above because their interests do
17 not conflict with the interests of the class members they seek to represent and they are similarly situated
18 with members of their class(es). Plaintiffs will fairly and adequately represent and protect the interests
19 of the Classes and plaintiffs' interests are not antagonistic to the classes. Plaintiffs have retained
20 counsel who is competent and experienced in the prosecution of class action litigation.

21 87. A class action is superior to other available means for the fair and efficient adjudication
22 of plaintiffs' and class members' claims. Plaintiffs and the members of the Classes have suffered
23 irreparable harm as a result of defendants' unfair and unlawful conduct. Because of the size of the
24 individual class members' claims, few, if any, class members could afford to seek legal redress for the
25 wrongs complained herein. Absent the class action, the members of the Classes will continue to suffer
26 losses and the violations of law described herein will continue without remedy and defendants will be
27 permitted to retain the proceeds of their misdeeds. Defendants continue to deny wrongdoing and to
28 engage in the unlawful and unfair conduct that is the subject of this complaint.

FIRST CAUSE OF ACTION

**Unlawful Business Acts and Practices
(Against All Defendants)**

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2
3
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6
88. Plaintiffs, on behalf of themselves and all others similarly situated and on behalf of the
general public as appropriate, realleges, as if fully set forth herein, each and every allegation contained
in ¶¶1-__ herein, and further alleges as follows:

7
8
9
10
11
89. The acts and practices of defendants as alleged herein constitute unlawful business acts
and practices within the meaning of Cal. Bus. & Prof. Code §§17200, *et seq.* Defendants have engaged
in “unlawful” business acts and practices as noted above but in particular by their violations of
California Penal Code §320 (lotteries); §321 (sale of chances or lotteries); 322 (advertising lotteries);
§330 (casino and card games); §337(a) (sports bookmaking); §337 (unlicensed controlled games).

12
13
14
90. In particular, defendants, by their actions above in ¶¶__-__, directly committed, or
aided and abetted in the commission, or not being present, advised and encouraged the commission of
the following unlawful acts:

15
16
(a) contriving, preparing, setting up, proposing or drawing on unlicensed or
authorized lotteries to California residents in the State of California (Penal Code §320).

17
18
19
20
(b) selling, giving, or in any manner whatsoever furnishing or transferring to
California residents in California, tickets, chances, shares, or interest or paper, certificates, or
instruments purporting or understood to be or to represent tickets, chances, shares, or interests in, or
depending on the event of lotteries (Penal Code §321).

21
22
23
(c) aiding or assisting, either by printing, writing, advertising, publishing, or
otherwise in setting up, managing, or drawing lotteries, or in selling or disposing of tickets, chances, or
shares therein (Penal Code §322);

24
25
26
27
(d) dealing, playing, or carrying on, opening, or causing to be opened, or conducting
games of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-
one, hokey pokey, or any banking or percentage game played with cards, dice, or any device, for
money, checks, credit, or other representatives of value (Penal Code §330);

28
(e) playing or betting against games prohibited by Penal Code §330;

1 (f) engaging in pool selling or book making (Penal Code §337(a));

2 (g) laying, offering, or accepting bets or wages or wagers, upon the result, or
3 purported results of trials or purported trials or contests or purported contests of skill, speed or power of
4 endurance of men or beast, or between men, beasts, or mechanical apparatus (Penal Code §337a); or

5 (h) dealing, operating, carrying on, conducting, maintaining or exposing for play in
6 California controlled games without first procuring and thereafter maintaining in effect all state and
7 local licenses required by law (Penal Code §337); and

8 (i) the acts of defendants also constitute unlawful business acts within the meaning
9 of Cal. Bus. & Prof. Code §§17200, *et seq.* as they violate California Penal Code §318 which states:

10 Whoever, through invitation or device, prevails upon any person
11 to visit any room, building, or other places kept for the purpose of illegal
gambling or prostitution, is guilty of a misdemeanor.... [v]

12 Defendants, by their above actions, prevailed upon persons in California through “invitation or device”
13 to visit Internet gambling Websites which constitute “other places kept for the purpose of illegal
14 gambling.”

15 91. Defendants have conspired and aided and abetted and/or advised and encouraged the
16 commission of violations of the above noted sections of the California Penal Code. California Penal
17 Code §31 states:

18 All persons concerned in the commission of a crime, whether it
19 be felony or misdemeanor, and whether they directly commit the act
20 constituting the offense, or aid and abet in its commission, or, not being
present, have advised and encouraged its commission ... are principals in
any crime so committed. [v]

21 As such, the Advertising Defendants are guilty as principals in the violation of California Penal Code
22 §330 for millions of illegal gambling transactions in California.

23 92. As such, defendants are liable for the California Penal Code gambling violations in this
24 state.

25 93. The above-described unlawful and unfair business acts and practices continue to this
26 day. Defendants have received illegal proceeds and have failed to provide full restitution and
27 disgorgement of all ill-gotten monies either acquired or retained by Defendants as a result thereof, as
28 appropriate under California law.

1 (h) All gambling operations, all persons having a significant
2 involvement in gambling operations, all establishments where gambling
3 is conducted, and all manufacturers, sellers, and distributors of gambling
4 equipment must be licensed and regulated to protect the public health,
5 safety, and general welfare of the residents of this state as an exercise of
6 the police powers of the state.

7 (j) In order to effectuate state policy as declared herein, it is necessary
8 that gambling establishments, activities, and equipment be licensed, that
9 persons participating in those activities be licensed or registered, that
10 certain transactions, events, and processes involving gambling
11 establishments and owners of gambling establishments be subject to
12 prior approval or permission, that unsuitable persons not be permitted to
13 associate with gambling activities or gambling establishments, and that
14 gambling activities take place only in suitable locations. Any license or
15 permit issued, or other approval granted pursuant to this chapter, is
16 declared to be a revocable privilege, and no holder acquires any vested
17 right therein or thereunder.

18 (k) The location of lawful gambling premises, the hours of operation of
19 those premises, the number of tables permitted in those premises, and
20 wagering limits in permissible games conducted in those premises are
21 proper subjects for regulation by local governmental bodies. However,
22 consideration of those same subjects by a state regulatory agency, as
23 specified in this chapter, is warranted when local governmental
24 regulation respecting those subjects is inadequate or the regulation fails
25 to safeguard the legitimate interests of residents in other governmental
26 jurisdictions.

27 (l) The exclusion or ejection of certain persons from gambling
28 establishments is necessary to effectuate the policies of this chapter and
to maintain effectively the strict regulation of licensed gambling.

97. So too, Article IV, Legislative §19 of the California Constitution provides:

(a) The Legislature has no power to authorize lotteries, and shall prohibit
the sale of lottery tickets in the State.

* * *

(e) The Legislature has no power to authorize, and shall prohibit, casinos
of the type currently operating in Nevada and New Jersey.

* * *

(f) Notwithstanding subdivisions (a) and (e), and any other provision of
state law, the Governor is authorized to negotiate and conclude
compacts, subject to ratification by the Legislature, for the operation of
slot machines and for the conduct of lottery games and banking and
percentage card games by federally recognized Indian tribes on Indian
lands in California in accordance with federal law. Accordingly, slot
machines, lottery games, and banking and percentage card games are
hereby permitted to be conducted and operated on tribal lands subject to
those compacts.

1 98. Defendants, by their actions above in ¶¶____, ____ committed unfair business practices
2 by acting contrary to the public policies described above.

3 99. The above-described unfair business acts and practices continue to this day. Defendants
4 have received illegal proceeds and have failed to provide full restitution and disgorgement of all ill-
5 gotten monies either acquired or retained by Defendants as a result thereof, as appropriate under
6 California law.

7 100. Plaintiff, and to the extent permitted under California law, the general public, therefore
8 seeks an order of this Court for appropriate available remedies under Cal. Bus. & Prof. Code §17203.

9 **THIRD CAUSE OF ACTION**

10 **For Aiding And Abetting**
11 **(Against All Defendants)**

12 101. Plaintiffs incorporate by reference into this cause of action all of the allegations
13 contained in the preceding paragraphs of the complaint.

14 102. The Advertising Defendants, and each of them, aided and abetted in the operation of
15 illegal gambling enterprise by knowingly providing advertising of the defendants' gambling websites to
16 persons in California. The Advertising Defendants knew about the content of the gambling website
17 defendants' activities and knowingly sold advertising to the gambling website defendants an illegal act
18 in the State of California.

19 103. The Advertising Defendants' provision of advertising services constitutes the primary
20 means of obtaining customers for illegal gambling websites.

21 104. The Advertising Defendants advertised the illegal gambling website information with
22 full knowledge of illegal character and in bad faith therein.

23 **FOURTH CAUSE OF ACTION**

24 **Conspiracy**
25 **(Against All Defendants)**

26 105. Plaintiffs incorporate by reference into this cause of action all of the allegations
27 contained in the preceding paragraphs of the complaint.

28 106. The Advertising Defendants, and each of them, conspired in the operation of illegal
gambling enterprise by knowingly and purposefully providing advertising in California to the Website

1 defendants to advertise and promote and carry out illegal gambling in California with persons in
2 California. The Advertising Defendants knew about the content of the gambling Website defendants'
3 activities and knowingly conspired to provide advertising to the gambling Website defendants – an
4 illegal act in the State of California.

5 107. The Advertising Defendants advertised the illegal gambling Website information with
6 full knowledge of illegal character and in bad faith therein.

7 **FIFTH CAUSE OF ACTION**

8 **Declaratory Relief Pursuant to California Code of Civil Procedure §1060**
9 **(Against All Defendants)**

10 108. Plaintiffs incorporate by reference into this cause of action all of the allegations
11 contained in the preceding paragraphs of the complaint.

12 109. As alleged in this complaint, Internet casino-style gambling is a growing and lucrative
13 business activity with direct impact upon all of the citizens of the State of California who have the
14 potential of using the Internet. Internet casino-style gambling directed to persons residing and located
15 in the State of California and constitutes gambling in the State of California which is illegal, against
16 public policy, and violates the California Unfair Business Practices Act.

17 110. Advertising Defendants have for several years advertised illegal Internet gambling in
18 California and have not taken any steps to alleviate the harm caused by this activity. Although two of
19 the advertising defendants, Yahoo and Google, have suggested intention to withdraw some or all of
20 their illegal Internet advertising, as of the time of the filing of this complaint this advertising continues.

21 111. Illegal gambling Websites have for several years conducted illegal Internet gambling in
22 California and have not taken any steps to alleviate the harm caused to gamblers, their spouses,
23 guardians, the State of California or other parties.

24 112. Therefore, an actual and present controversy exists concerning the legality of the
25 advertising defendants' Internet advertisement of illegal gambling Websites in the State of California.

26 113. For this reason, plaintiffs seek a declaration of this court that the Internet gambling
27 transactions and the Internet advertisement of gambling Websites in California carried on by
28

1 Defendants, and each of them, are illegal (Penal Code §§230, 321, 322, 330, 337(a) and 337), and
2 constitute illegal unfair business practices under Cal. Bus. & Prof. Code §17200.

3 SIXTH CAUSE OF ACTION

4 Injunctive Relief Pursuant to California Code of Civil Procedure §526 5 (Against All Defendants)

6 114. Plaintiffs incorporate by reference into this cause of action all of the allegations
7 contained in the preceding paragraphs of the complaint.

8 115. As alleged in this complaint, Internet casino-style gambling is a growing and lucrative
9 business activity with direct impact upon all of the citizens of the State of California who have the
10 potential of using the Internet. Internet casino-style gambling directed to persons residing and located
11 in the State of California constitutes unlicensed gambling in the State of California. This unlicensed
12 gambling is illegal, against public policy, and violates the California Unfair Business Practices Act.

13 116. Advertising Defendants have for several years advertised illegal gambling in California
14 and have not taken any steps to alleviate the harm caused by this activity. Although two of the
15 advertising defendants, Yahoo and Google, have announced an intention to withdraw some or all of
16 their illegal Internet advertising in the near future, as of the time of the filing of this complaint no
17 effective actions had been taken. Further, Yahoo and Google would have no constraint, other than an
18 injunction, in restarting this practice and have announced their intention to curtail the practice only
19 under the implicit threat of regulatory action.

20 117. Defendant gambling Websites have for several years conducted illegal gambling in
21 California and have not taken any steps to alleviate the harm caused to gamblers, their spouses,
22 guardians, the State of California or other parties. Without injunctive relief, this harm will continue
23 unabated.

24 118. [The above actions constitute an unfair and unlawful business practice, in violation of
25 Cal. Bus. & Prof. Code §§17200, *et seq.* Therefore, an actual and present controversy exists concerning
26 the legality Internet gambling and the advertising defendants' gambling Websites in the State of
27 California.]

1 119. Plaintiffs and the public at large have no adequate remedy at law for the injuries
2 currently being suffered or which will result in the future from defendants', and each of their, continued
3 wrongful conduct unless and until such conduct is restrained by the order of this court. Plaintiffs,
4 therefore, seek an injunction against [defendants' illegal gambling activities in California and against]
5 defendants' illegal gambling advertising in the State of California.

6 SEVENTH CAUSE OF ACTION

7 Restitution

8 120. As set forth above, by their conduct, defendants have violated Cal. Bus. & Prof. Code
9 §§17200, *et seq.*

10 121. Representative plaintiffs Michael Voight and Mario Cisernos, seek to recover from
11 defendants on behalf of the general public and to restore all licensed gambling operators, such as
12 licensed Indian Tribes:

13 (a) All revenues and profits acquired by Internet gambling Websites, who purchased
14 sponsored links and advertisements with defendants, from persons using computers in California who
15 and ___ on their Websites.

16 (b) All revenues and profits acquired by defendants from providing sponsored links
17 of gambling Websites advertising online Internet gambling in California.

18 (c) By law, only certain licensed businesses and Indian Tribes are allowed to accept
19 revenues and profits from gambling activities in the State of California, and therefore are the rightful
20 owner and or have an interest in the gambling proceeds.

21 122. Representative plaintiffs Michael Voight and Mario Cisernos, seek to recover from
22 defendants on behalf of the general public and restore to the State of California, all revenues, taxes, and
23 fees, wrongfully avoided or withheld from the state acquired by Internet gambling Websites who
24 purchased sponsored links and advertisements with defendants, from persons using computers in
25 California who gambled on their Websites, which proceeds belong to the State of California by virtue of
26 Penal Code §325 ("All moneys and property offered for sale or distribution in violation of any
27 provisions of this chapter are forfeited to the state ...")
28

1 DATED: [Insert Date]

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