

A Look At Sweepstakes Casinos' Legal Issues In Fla., Beyond

By **James Meggesto and Samir Patel** (January 21, 2025)

The rapid rise of sweepstakes casinos presents a growing threat to the regulated gambling industry, as these platforms often attempt to exploit legal loopholes to operate without oversight.

This situation undermines licensed casinos, particularly tribal operations, which contribute significantly to local economies through regulated gaming. In response, industry stakeholders across the U.S., including in Florida, are stepping up to protect their gaming operations by challenging unregulated sweepstakes platforms.

Several state attorneys general — from Michigan, Connecticut, Delaware and Washington — have issued cease-and-desist letters to sweepstakes casinos, highlighting their concern over unlicensed gambling.

Against this backdrop, the lawsuit *Knapp v. VGW Holdings Ltd.* in the U.S. District Court for the Middle District of Florida, filed Feb. 28 and scheduled for trial later this year, represents a critical legal challenge to the business model of sweepstakes casinos, this time under Florida law.

The plaintiff in the case, Eric A. Knapp, alleges that VGW Holdings, which operates popular online games such as Luckyland Slots and Chumba Casino, violates Florida's strict gambling regulations by offering games that allow users to purchase virtual currency for a chance to win real money prizes.

This case sheds light on the intersection of Florida's gambling statutes and consumer protection laws, as the plaintiff seeks to hold VGW accountable for what he claims are illegal gambling activities disguised as sweepstakes.

Alleged Violations of Florida Law

Chapter 849 of the Florida Statutes governs gambling in the state and prohibits various forms of gambling unless expressly licensed or authorized. Specifically, Section 849.08 of the Florida Statutes prohibits unlicensed lotteries, while Section 849.14 makes it illegal to engage in any game of chance in which money or something of value is wagered.

The plaintiff argues that VGW's games fall under these prohibitions, as players are required to pay real money for a chance to win real prizes, despite VGW's attempt to present these transactions as sweepstakes rather than gambling.

Doubling down on the argument that players are required to pay real money for a chance to win prizes, the plaintiff named WorldPay Inc. as a co-defendant for its role as the payment processor under Section 849.29 of the Florida Statutes, for the alleged illegal gambling operation. In response, WorldPay filed a motion to dismiss claiming that it no longer exists because of its corporate merger with another defendant.

On Nov. 25, the court denied WorldPay's motion to dismiss, and in doing so, provided future



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plaintiffs against sweepstakes casinos the ability to now also include payment processors.

Additionally, the plaintiff asserts claims under the Florida Deceptive and Unfair Trade Practices Act, codified at Section 501.201 of the Florida Statutes, which prohibits unfair, deceptive and unconscionable business practices.

The complaint alleges that VGW has misrepresented its games as legal sweepstakes, thus misleading consumers into participating in what is essentially illegal gambling.

The Two-Coin "Freemium" Model in Sweepstakes Casinos

At the center of the case is VGW's business and its use of a two-coin so-called freemium model, which is ubiquitous to the sweepstakes casinos. A two-coin freemium model generally includes one type of virtual coin, which players receive for free at regular intervals or can purchase through an online store.

This coin is used exclusively for playing casino-style games. Alongside these virtual coins, operators offer players a second type of virtual item, known as a sweep coin. Players can acquire sweep coins by logging in, via special promotions, or as a bonus when buying virtual coins. Sweep coins serve a distinct purpose: They can typically be exchanged for cash at a rate of \$1 per sweep coin.

VGW argues that the two-coin freemium model distinguishes its games from traditional gambling because players are not technically wagering real money. Instead, they are purchasing entertainment, the gold coins, and receiving an entry into a sweepstakes — via sweep coins.

This distinction has been critical to VGW's defense in similar legal challenges across the U.S., where it argues that its business model falls within sweepstakes exemptions rather than illegal gambling.

Illegal Games of Chance

Florida, as do most other states, uses a three-part test to determine whether a game constitutes a lottery, which is relevant to the legality of sweepstakes casinos. According to the Florida Supreme Court, a lottery must involve three elements: (1) consideration, (2) random selection by chance, and (3) a prize.

This test is used to assess whether a game of chance, such as those found in sweepstakes casinos, meets the criteria for being classified as a lottery and thus subject to Florida's gambling laws. If one element is missing, then it may not be a lottery.

VGW's defense will presumably be based on the notion that players do not need to wager consideration to enjoy their online casino, thus eliminating one element from the lottery test.

The Knapp case is closely related to the Florida attorney general's opinion in AGO 98-07 from 1998, which addressed the legality of machines dispensing telephone cards with attached sweepstakes tickets where a particular sequence of numbers would win the ticketholder a cash prize.

In that opinion, the attorney general determined that such machines constituted illegal gambling under Chapter 849 of the Florida Statutes.

The opinion found that even if a consumer product, such as a phone card, is attached to the transaction, the inclusion of a sweepstakes based on chance makes the operation illegal under Florida law. This analysis mirrors the arguments in the Knapp case, where the plaintiff contends that VGW's two-coin freemium model, involving gold coins and sweep coins, similarly constitutes illegal gambling disguised as a sweepstakes.

Both the attorney general's opinion and the plaintiff's claims in Knapp emphasize the core legal principles that if a game involves an element of chance and monetary consideration, it likely falls under Florida's prohibition of unlicensed gambling operations.

Tribes Taking Charge Against Sweepstakes Casinos

In California, tribal gaming leaders have formed a coalition to tackle the rise of unregulated sweepstakes casino operators like VGW. Tribal leaders argue that these unlicensed online casinos not only compete unfairly with regulated gaming but also deprive the state and its citizens of tax revenues that are vital to community development.

The tribes call for stricter enforcement of gambling laws and clearer regulations to stop the spread of these unregulated platforms. They emphasize that these sweepstakes games harm the integrity of the legal gambling market, affecting jobs, tribal economies and the state's ability to collect gaming revenues.

The united front presented by tribes highlights the urgency of addressing these concerns before the sweepstakes model becomes more pervasive.

In Florida, the specific requirements for protecting the Seminole Tribe's exclusivity in gaming operations are outlined in the Florida Gaming Compact of 2021 between the tribe and the state. Under this agreement, the state is obligated to enforce this exclusivity by using the Florida Gaming Control Commission to shut down illegal gambling venues and operators throughout Florida.

The state's duty to protect this exclusivity is critical for ensuring that tribes maintain their economic benefits and the state receives its share of revenues under the compact. For instance, in 2018, the Seminole Tribe withheld \$350 million in payments to the state because the state failed to protect the tribe's exclusivity to offer certain banked card games like blackjack.

If VGW is found to be operating an illegal online casino, then the state would seemingly need to take immediate action to enforce existing law to protect the Seminole Tribe's rights under the compact. This outcome would likely support tribes in California, Oklahoma and other states that also have negotiated tribal exclusivity to offer casino games within their state compacts.

Conclusion

The Knapp v. VGW Holdings Ltd. case underscores the growing urgency for gambling states to clarify and enforce their gambling laws in response to emerging online gaming models. As sweepstakes casinos continue to expand, they challenge traditional interpretations of gambling regulations, raising critical questions about the boundaries of legal and illegal gaming.

A ruling against VGW in this case could set a powerful precedent in Florida, affirming the

state's commitment to protect regulated industries and uphold the integrity of its gaming laws. Nationally, it could spur Congress to enact legislation clarifying the line between traditional sweepstakes contests and sweepstakes-based casino gaming.

For payment processors, WorldPay's failure to withdraw from the case may serve as a warning to other payment processors working with sweepstakes casinos. Much like the intended effect of the Unlawful Internet Gambling Enforcement Act, which targeted payment processors, this civil litigation may cut off sweepstakes casinos' ability to deposit and withdraw money because of a lack of service providers, thus rendering the two-coin so-called freemium model futile.

For Florida, this case represents an opportunity to reinforce its regulatory framework and protect the economic contributions of its licensed casinos operated by the Seminole Tribe, whose exclusivity agreement is vital to both tribal and state revenue.

By addressing the perceived legal loopholes that sweepstakes casinos seek to exploit, Florida can strengthen its role as a regulatory leader, providing a model for other states in balancing innovation with the protections necessary for a fair and lawful gambling industry. Trial is scheduled for October. This case, therefore, potentially stands to significantly affect the country's approach to online gaming, setting a course for more robust, adaptive regulations in the digital age.

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