

October 2, 2018

Honorable Mr. Jeff Sessions
United States Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Re: Gambling Operations in Puerto Rico Without Anti-Money Laundering Safeguards

Dear Attorney General Sessions:

We represent a majority of the sixteen (16) existing Casinos in Puerto Rico, consequently we take gambling regulation with the outmost seriousness and feel it is our responsibility to protect the integrity of gaming in our jurisdiction. Therefore, we want to bring to your attention our deepest concerns with the publicly voiced intentions of the Legislative Assembly of Puerto Rico to promote the legalization of the current illegal slot machines¹ operating at gas stations, grocery stores and bakery shops, among other places.

To give you a general background, in 1997 the Government of Puerto Rico authorized an entertainment operation dubbed "Adult Entertainment Machines" ("AEMs"), which consisted of electronic machines similar to casino slots. Such authorization was exclusively for entertainment purposes and expressly prohibited that these machines pay out cash prizes.²

Having authorized an "entertainment" enterprise (not a gambling operation) the license to operate these machines did not include any financial or criminal background check nor the strict requirements applicable to casino gaming. Currently, the only requirements to obtain a license to operate AEMs are (i) a License Application in Form SC 2309³, which is the same form used for other coin-operated devices such as billiards, arcade, jukeboxes, among others; and (ii) Form SC 2353⁴ titled "Commitment of Responsibility for the Purposes of the Internal Revenue Licenses for Adult Entertainment Machines."

¹ See news article "*In the look for votes to the tax reform*"

<https://www.elnuevodia.com/noticias/locales/nota/buscanlosvotosparalareformacontributiva-2448519/>

² Puerto Rico Act 22 of 1997, Official English translation by the Office of Legislative Services of the Legislative Assembly of Puerto Rico, <http://www.oslpr.org/download/en/1997/0022.pdf>

³ Puerto Rico Department of Treasury Form SC 2309

http://www.hacienda.gobierno.pr/sites/default/files/documentos/sc_2309_0.pdf

⁴ Puerto Rico Department of Treasury Form SC 2353

<http://www.hacienda.gobierno.pr/sites/default/files/documentos/sc2353.pdf>

Form SC 2353 requires the person applying for the license to provide a sworn statement under penalty of perjury certifying that the AEM does not have the elements to operate like a gaming machine, which are summarized as follows:

- 1) It does not have a device to accept bets that are registered in a counter inside the machine.
- 2) It does not have a mechanism to pay cash prizes to the player, a coin dispenser to pay cash prizes directly to the player (hopper) or an exit meter that can register or credit cash payments to the player.
- 3) It does not have blocking devices ("knock-off switches") to erase the credits once the winning player is paid.
- 4) It does not have devices or mechanisms that make the machines operate with full autonomy of the player for a predetermined cycle or time and that causes that the result of the game or of the operation that the machine realizes be decided by luck or chance.

In August 2017, the Legislature of Puerto Rico passed legislation to tackle a tax evasion scheme in which AEMs operators were (and still are) utilizing licenses for coin-operated electronic video games (\$100 per license) in order to avoid the cost of \$2,500 (per machine) imposed by law for the AEMs licenses.⁵ Furthermore, this scheme allows the AEMs operators to circumvent the requirement of the "Commitment of Responsibility for the Purposes of the Internal Revenue Licenses for Adult Entertainment Machines," thus avoiding the legal consequences of perjury charges for operating the "entertainment machines" as gambling machines. The bill's Statement of Motives offers further information on this scheme:

****This explains why in 2009, Puerto Rico reported one thousand two (1,002) jukeboxes, billiards, electronic or hobby machines and there were eight thousand three hundred and fifty-five (8,355) adult entertainment machines. However, in 2014 the Department of the Treasury reported almost twenty thousand (20,000) jukeboxes, billiards, electronic or hobby machines, at the same time that it reported zero (0) in the line of adult entertainment machines. That is, in five (5) years, between 2009 and 2014, the issuance of licenses to jukeboxes, billiards, electronic or hobby machines increased to almost seventeen (17) thousand and the permit to operate the licenses was reduced to zero (0) adult entertainment machines.****

On August 23, 2017, Governor Ricardo Rosselló signed the bill into Act No. 108 of 2017. The Act authorized the Secretary of the Treasury of Puerto Rico to cancel all existing licenses for

⁵ Puerto Rico Act 108 of 2017, <http://www.oslpr.org/2017-2020/leyes/pdf/ley-108-23-Ago-2017.pdf>



coin-operated machines no later than October 31, 2017 and to require their renewal under the terms of Act 108. However, a month later Puerto Rico was devastated by Hurricane Maria and the Secretary postponed the cancellation and renewal deadlines until March 31, 2018.⁶ At this time, we do not know if the cancellations and renewals of AEMs licenses set forth by Act 108 were ever executed.

These “entertainment machines” are operated illegally as gambling machines. Like a gaming operation, these machines receive cash from players, which is then divided between the operator and the owner of the establishment while cash prizes are paid to customers.⁷ All these transactions and exchanges of cash happen without the owners of the machines nor the owners of the establishments being regulated by the federal and state laws to combat money laundering and guarantee the integrity of the games of chance.

In fact, these AEMs operate in a similar fashion as many operations that have resulted in money laundering and other federal and state charges in other U.S. jurisdictions such as the following:

- **San Francisco and Los Angeles Area Residents Charged with Operating an Illegal Gambling Business, Money Laundering, Witness Tampering, and Making False Statements to the Grand Jury in Superseding Indictment** <https://www.justice.gov/usao-edca/pr/san-francisco-and-los-angeles-area-residents-charged-operating-illegal-gambling>
- **Former Tennessee Mayor and Associate Sentenced for Running Illegal Gambling Business** <https://www.justice.gov/opa/pr/former-tennessee-mayor-and-associate-sentenced-running-illegal-gambling-business>
- **“Dino the Casino” of Los Angeles Indicted for Statewide Illegal Gambling Business, Money Laundering, and Cocaine Distribution** <https://www.justice.gov/usao-edca/pr/dino-casino-los-angeles-indicted-statewide-illegal-gambling-business-money-laundering>
- **Little Rock Owner of Chicot Game Room Pleads Guilty to Tax Evasion and Operating an Illegal Gambling Business** <https://www.justice.gov/usao-edar/pr/little-rock-owner-chicot-game-room-pleads-guilty-tax-evasion-and-operating-illegal>
- **Five Amarillo Residents Sentenced In Illegal Gambling Case** <https://www.justice.gov/usao-ndtx/pr/five-amarillo-residents-sentenced-illegal-gambling-case>
- **Eleven Indicted In Jackson Illegal Gambling Ring** <https://www.justice.gov/usao-wdtn/pr/eleven-indicted-jackson-illegal-gambling-ring>

⁶ <http://www.hacienda.pr.gov/publicaciones/determinacion-administrativa-num-17-22>

⁷ <https://www.pressreader.com/puerto-rico/primera-hora/20150619/281479275051651>



- **Operator Of Illegal Gambling Enterprise Pleads Guilty** <https://www.justice.gov/usao-wdnc/pr/operator-illegal-gambling-enterprise-pleads-guilty>

The Government of Puerto Rico has recognized the illegal operation of these machines as a problem. In July 2014, the Government enacted Act No. 77, which transferred to the Puerto Rico Tourism Company's Division of Games of Chance ("PRTC") the authority to monitor and supervise the operation of illegal gaming machines and imposed much stiffer penalties on those found operating outside of the law. It also provided a much clearer definition of the differences between AEMs and slot machines.

According to the definition in the new act, AEMs may not award prizes of any kind, are designed primarily for entertainment purposes and the outcome depends entirely on the player's skill, whereas the result of slot machines depend entirely on luck and award cash prizes. The law expressly bans slot machines in department stores, bakery shops, supermarkets, gas stations, as well as in hospitals, offices and government facilities and banned standalone slot parlors.

The transference of the regulatory jurisdiction from the Department of Treasury to PRTC responded to a historical lack of enforcement of the laws related to AEMs under Treasury. However, PRTC is not using its powers under Law 77 fully while illegal gambling continues to happen in the Island.

Only a year after enacting legislation to crack down on the widespread tax evasion scheme described above, the Puerto Rico Legislature has announced plans to allow AEMs to pay prizes legally by hooking them through a centralized system.⁸ There is an estimate of 25,000 to 30,000 AEMs operating in Puerto Rico; this would create a gaming operation four to five times bigger than the number of existing slot machines in our Casinos.

The legalization of the illegal AEM's in the Island connected through a centralized system to a local Government entity must include the strict anti-money laundering safeguards included in the Bank Secrecy Act regulated under FinCEN, among other federal laws that casinos in the Island and the United States must adhere to. Not doing so will just provide multiple access points in a centralized system for the easy laundering of money into the US financial system. We are confident you will share our same concerns in allowing this unregulated scenario being implemented, as proposed. As you know, Puerto Rico is under the High Intensity Drug Trafficking Area Program, which devotes federal resources supporting multiagency activities ranging from enforcement initiatives involving investigation, interdiction, and prosecution, to drug use prevention and treatment initiatives. There is no need to aggravate things further by adopting a structure that could benefit such type of illegal activities.

⁸ Puerto Rico considering slot machine expansion <http://g3newswire.com/puerto-rico-puerto-rico-considering-slot-machine-expansion/>



We have communicated our concerns to the Puerto Rico legislative leadership. However, knowing the high priority the U.S. Department of Justice places in the national threats associated with money laundering and financial crimes, we felt appropriate to make you aware of this information and hereby request your intervention in the process.

Thank you for your consideration of this important matter.

Sincerely,



Clarisa Jiménez
President & CEO
Puerto Rico Hotel & Tourism Association

xc. Hon. Mr. Steven Mnuchin, Secretary, Treasury Department
Hon. Mr. Kenneth A. Blanco, Director, FinCen