

## **Michael K. Fagan**

(Missouri Bar #28441)

P.O. Box 220031

St. Louis, MO 63122

[centerforadvancedprosecution@gmail.com](mailto:centerforadvancedprosecution@gmail.com)

314-660-4282

**Adjunct Professor, Washington University School of Law**

Consultant on domestic and transnational criminal law, trial practice, anti-money laundering, counterterrorism, intelligence, corporate compliance, and emergency planning issues/strategies

September 16, 2015

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Michael C. Burgess  
Chairman  
Subcommittee on Commerce, Mfg., and Trade  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Upton and Chairman Burgess:

Ranking Member Frank Pallone, Jr., a Representative of New Jersey, has requested that you arrange to hold a hearing examining the relationship between professional sports and fantasy sports, particularly daily fantasy sports (“DFS”) enterprises, to review the legal status of fantasy sports and sports betting. Press reports indicate that Representative Pallone favors broad expansion and legalization of commercial gambling, including wagering on professional and amateur sporting events.

If, indeed, that is his position and is what motivates his request for a hearing, compelling public policy, good government, and public health reasons refute his position. Thus, if you elect to grant his request, I would hope that you would invite to testify at the hearing experts (not aligned with commercial gambling and DFS interests) who have studied commercial gambling and its’ consequences. Whether I am an expert or not I leave for others to say, but I have been invited previously to testify before Congressional committees on commercial gambling-related legislative proposals and would be pleased to again do so, if asked. I do have extensive experience with the investigation and prosecution of online sports gambling enterprises, and I coordinate the Predatory Gambling Liability Project.

As you and your staff consider Representative Pallone’s request, I urge you to review a letter I sent earlier this month to Internal Revenue Service executives. I have enclosed a copy of that letter, which points out that, plainly, DFS [1] is gambling, [2] isn’t immune from wagering excise tax obligations, [3] has (as an industry) repeatedly misrepresented itself and the scope of the UIGEA “carve-out” that it so often cites, and [4] is due for appropriate investigation and prosecution. If you schedule the requested hearing, I suggest that it address these aspects of DFS and its aiders and abettors.

Respectfully,

Michael K. Fagan

Encl.