

The Las Vegas Sun

Why does district attorney act as bill collector for casinos?

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Next time my girlfriend doesn't promptly deliver dinner and a movie after I win one of our regular trivia bets, I'm gonna call Clark County District Attorney David Roger and have her prosecuted. I'm sure he'll get right on it.

Of course he wouldn't. But casinos are different from you and me.

If a player gets a "marker" — essentially a loan — to play craps and can't repay, the operator can bring the case to the district attorney, who prosecutes it as a "bad check."

This odd arrangement on behalf of the gaming industry isn't new but has been in the news recently, as former NBA star Antoine Walker [pleaded guilty to this type of felony "bad check" charges](#) Tuesday.

Last week a Californian named Harel Zahavi was convicted of four counts of passing "bad checks" that were actually casino markers of \$384,000 to the Palazzo, Venetian, Hard Rock Hotel and Caesars Palace.

Even though he's obviously a gambling addict, it's hard to feel sorry for a rich guy who foolishly took his chances and lost.

Still, the idea that the district attorney's office acts like a collection agency, chasing debts on behalf of Fortune 500 companies on the Strip is an outrage. It's perhaps the most explicit example — although just one of many — of our government acting as water carrier for the gaming industry.

Do you need anything else, Mr. Adelson? Can I clean your nails for you?

The practice of sending people to jail for not paying debts, known as "debtor's prison," has been outlawed in the civilized world because it's legal extortion, although some form of it is still on the books in more than one-third of the states, according to a recent report in *The Wall Street Journal*.

It's illegal in Nevada. Here's the Nevada Constitution: "And there shall be no imprisonment for debt, except in cases of fraud, libel, or slander ..."

The prosecutor's claim in the Zahavi case, which the jury agreed with, is that the formerly rich gambler knew he couldn't pay the marker if he lost because he'd already drained his assets gambling, but took the marker anyway, so that's fraud.

After I called Roger, Bernie Zadrowski, the outgoing head of the bad check unit who prosecuted the Zahavi case, called me back. Here's what he says: "The crime is in the writing of the check with intent to defraud."

In no other state is a marker treated like a check, Zadrowski says. Only in Nevada do we collect debts for casinos. A nice distinction for us.

This still seems like debtor's prison to me because if Zahavi had the money and paid it back, the whole thing would obviously go away. So really the only reason he was convicted is because he can't pay back what he owes, i.e., debtor's prison.

Zadrowski gets lawyerly on this point: "If he pays it back, it's still a crime. (The casinos) have just chosen not to pursue it with our office."

Fine. Let's stipulate that it's true Zahavi committed fraud because he knew he couldn't pay back his markers, but took them anyway.

But let's consider the casinos. Perhaps they didn't do their due diligence and didn't know — or didn't want to know — if Zahavi could repay: "It's one of the hallmarks of predatory lending, to lend without knowing if the borrower has a realistic ability to repay," says Carolyn Carter, an attorney with the National Consumer Law Center.

Or maybe Zahavi knew he couldn't repay, and the casinos knew it, too.

As the Las Vegas Review-Journal reported, "a Hard Rock executive testified that the resort gave Zahavi \$100,000 in markers in late October 2008 knowing that by then, he had accumulated nearly \$500,000 in outstanding markers at other casinos and had less than \$30,000 in the two bank accounts he listed."

This is the equivalent of giving a hotel housekeeper a loan for a \$500,000 house during the housing bubble. Last time I checked, we weren't throwing the housekeeper in jail.

The point here is that we're absolving the casino of the risk usually taken on by a traditional lender. Because, after all, why not give the gambler the money? Worst-case scenario, they send the case to Roger, who will happily put his foot on the neck of the mark — oops, I mean borrower, er, check-writer/gambler.

Did I mention this odd arrangement, as a Sun colleague reported in 2008? The district attorney gets a 10 percent "administrative fee" for markers of \$10,000 or more that it prosecutes. A commission that helps support the bad check unit. Hmm. Let's get

creative: How about we set up a boiler room inside the district attorney's office and sell shares of gaming companies to hapless retirees?

In fairness to Zadrowski, he's only doing his job. The Legislature created this obscene arrangement. Zadrowski briefly turned political analyst during our talk: "When you look at the casino industry as the lifeblood of our economy, you would expect that these kinds of laws would be prevalent."

Indeed, the gaming industry and casinos on the Strip poured more than \$3.1 million into 2010 state races, according to the National Institute on Money in State Politics. For his part, the district attorney collected more than \$100,000 in donations from the gaming industry, including maximum contributions from MGM Resorts International, Wynn Resorts and Caesars, as well as \$5,000 from at least five Station Casinos properties, plus money from the Palms, M Resort, South Point, etc.

Perhaps in the next Legislature we should pass a law that says we will prosecute casino companies that don't pay back the markers they all took with New York banks.

That would certainly open spaces in our clogged country clubs.