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*NOT ADMITTED IN NEW YORK

May 13, 1997

BY FEDERAL EXPRESS AND FIRST-CLASS MAIL

Mr. Jay Cohen
Mr. Steve Schillinger
World Sports Exchange
Ryan's Place, High Street
St. John's
Antigua, West Indies

World Sports Exchange (wssex.com)

Gentlemen:

We are contacting you on behalf of our clients the National Football League (the "NFL"), the National Basketball Association (the "NBA") and the National Hockey League (the "NHL"). As you know, for many years the NFL, the NBA and the NHL each have invested substantial amounts of time, money and effort in organizing, promoting and marketing their respective leagues. Based on the longstanding efforts of the leagues and their member clubs, the NFL, the NBA and the NHL enjoy enormous success and respect worldwide. Each organization has developed a highly-regarded reputation for integrity and quality by, among other things, carefully controlling the nature of the activities with which it decides to become associated. Promotional efforts undertaken by the leagues emphasize the image and integrity of the leagues, and extend worldwide in virtually every medium, including the operation of Web sites on the World Wide Web portion of the Internet. The NFL, the NBA and the NHL each are well-known to the public and own rights to registered and famous trademarks that designate the origin of their sports and entertainment services.

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Our clients recently have learned that you are operating an unlawful sports-gambling enterprise directed to residents of the United States that promotes and facilitates wagering on NFL, NBA and NHL games. This operation appears to be conducted primarily through the use of a toll-free telephone number and a Web site on the World Wide Web portion of the Internet using the domain name www.wsex.com. Moreover, this unlawful conduct and the [wsex.com](http://www.wsex.com) site are promoted by using, without authorization, trademarks and original works of authorship in which our clients own exclusive rights, and "hot links" connecting [wsex.com](http://www.wsex.com) to the official Web sites of the NFL (www.nfl.com), the NBA (www.nba.com) and the NHL (www.nhl.com). Your activities have caused and are causing irreparable injury to the integrity of the NFL, the NBA and the NHL, to the value and goodwill of the trademarks of the NFL, the NBA, the NHL and their respective member clubs, and to copyrights and other proprietary rights owned by the NFL, the NBA and the NHL.

This letter shall put you on notice that in addition to the violations of U.S. criminal laws that you appear to be committing by the operation of [wsex.com](http://www.wsex.com), as outlined below, your activities violate our clients' rights under federal and state laws including (1) the Racketeer Influenced And Corrupt Organizations Act ("RICO"); (2) federal and state trademark and unfair competition laws and (3) federal copyright law.

Civil RICO. Your activities are unlawful under the provisions of the RICO statute, 18 U.S.C. § 1961 *et seq.*, which provides, among other things, that it is unlawful "to conduct or participate, directly or indirectly" in the conduct of an enterprise "through a pattern of racketeering activity." See 18 U.S.C. § 1962(c). Unlawful "racketeering activity" includes the "transmission of gambling information" in violation of Section 1084 of the Criminal Code (18 U.S.C. § 1084), the operation of an "illegal gambling business" in violation of Section 1955 of the Criminal Code (18 U.S.C. § 1955) and any act "involving . . . gambling . . . which is chargeable under State law." See 18 U.S.C. § 1961.

Your activities constitute unlawful "predicate acts" violating all of these provisions and are therefore actionable under 18 U.S.C. § 1964(c). *Id.* ("Any person injured in his business or property by reason of a violation

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of section 1962 . . . may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee"). For example, Section 1084(a) provides:

Whoever, being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers [commits a crime].

18 U.S.C. § 1084(a).

Section 1084(a) expressly extends to the transmission of information in interstate or foreign commerce. Id. Accordingly, your activities directed to the U.S. are unlawful notwithstanding that they purport to be based off-shore. See United States v. Blair, 54 F.3d 639, 643 (10th Cir.) (Section 1084(a) violation committed where defendant operated sports gambling operation in Dominican Republic that accepted bets by telephone from Oklahoma), cert. denied, 116 S.Ct. 220 (1995); U.S. v. McDonough, 835 F.2d 1103 (5th Cir. 1988) (wire transmissions between "gambling-illegal" and "gambling-legal" jurisdictions violated Section 1084(a)); Martin v. United States, 389 F.2d 895 (5th Cir.), cert. denied, 391 U.S. 919 (1968) (same); Cohen v. U.S., 378 F.2d 751 (9th Cir.), cert. denied, 389 U.S. 897 (1967) (same); U.S. v. Synodinos, 218 F. Supp. 479 (D. Utah 1963) (same). See also Consolidated Gold Fields PLC v. Minorco, S.A., 871 F.2d 252, 261-62 (2d Cir. 1989) (RICO violation based abroad actionable in U.S. where it has substantial effects in the U.S.); General Motors Corporation v. Lopez, 984 F. Supp. 670, 681 (E.D. Mich. 1996) (same).

Trademark Violations. The trademark violations inherent in the way World Sports Exchange uses the famous trademarks of the NFL, the NBA, the NHL and their respective member clubs, are self-evident even to a casual observer of

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wsex.com. Your site displays a variety of indicia that falsely suggest that the NFL, the NBA and the NHL are willing contributors to, or otherwise associated with, your site. These include, but are not limited to: (i) the use of club marks in connection with sports-gambling lines, betting odds and other wagering information; (ii) the use and promotion of "hot links" connecting wsex.com to the official Web sites of the NFL, the NBA and the NHL; (iii) the display of the wsex.com URL while our clients' Web sites (featuring NFL, NBA and NHL marks and logos) are displayed; (iv) the way our clients' material is inextricably positioned on the screen along with material posted by World Sports Exchange; and (v) World Sports Exchange's delivery of wagering, advertising and promotional material that appears simultaneously with the content of our clients' Web sites. In short, World Sports Exchange has developed and operates its site in a manner that unmistakably suggests it is authorized to display our clients' material in violation of state and federal law, including, with respect to the numerous registrations owned by the NFL, the NBA and the NHL for a wide range of goods and services, Section 32 of the Lanham Act, 15 U.S.C. § 1117, and, with respect to other marks, Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

In addition, by literally and figuratively linking our clients to a gambling operation, World Sports Exchange dilutes and tarnishes the prestige, image, appeal and marketing power of the famous trademarks of our clients by reproducing them in an unauthorized and improper manner in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and state dilution laws. McDonald's Corp. v. McBagel's Inc., 649 F. Supp. 1268, 1280 (S.D.N.Y. 1986); The Coca Cola Company v. Gemini Rising, Inc., 346 F. Supp. 1183, 1191-1192 (E.D.N.Y. 1972). See Gilliam v. American Broadcasting Co., 538 F.2d 14 (2d Cir. 1976) (transmission of television programs taken out of, and distorted from, their original context is actionable under the Lanham Act); see also Washington Post et al. v. Total News, 97 Civ. 1190 (PKL) (challenging Web site's use of framed images of other Web sites without authorization for commercial purposes).

Copyright Infringement. The wsex.com Web site reproduces and displays the original content of our clients' Web sites without authorization and in violation of our clients' exclusive rights under 17 U.S.C. § 106. Among other things, our clients are entitled to injunctive relief,

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damages, attorneys' fees and other relief based upon this unlawful conduct. See 17 U.S.C. §§ 504-505.

* * *

Under the circumstances, our clients are compelled to act promptly to protect the integrity of their sports, the value of their businesses and the goodwill represented by their trademarks and other proprietary rights. On behalf of our clients, we demand that World Sports Exchange immediately: (1) cease the transmission of sports gambling information concerning the NFL, the NBA and the NHL into the United States; (2) cease participating in commercial transactions with residents of the U.S. involving gambling on NFL, NBA and NHL games; (3) discontinue use of NFL, NBA and NHL trademarks as part of wsex.com; and (4) dismantle the link between wsex.com and the Web sites operated by the NFL, the NBA and the NHL. Our clients reserve the right to take any steps they may deem necessary to fully protect their respective rights, whether collectively or individually, including the assertion of any other claims. Please contact me no later than May 19, 1997, to discuss whether a resolution of this matter without further legal action is possible.

Very truly yours,

Bruce P. Keller

Bruce P. Keller

cc: Gary M. Gertzog, Esq.
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