

Amusement Gambling Intellectual contests and events registration

Dual Registration for the "Arizona Poker Tour" and its individual, related AGPT events

Hand-delivered to the Attorney General's office on June 4, 2018

This is a courtesy registration and notice of Real Poker's intent to begin conducting traditional poker tournaments at bars and restaurants or other third party venues. No response is requested or required. The act of registering the information required by ARS 13-3311 completely satisfies the requirements of ARS 13-3311. The attorney general's office is unable to provide an opinion as to whether the proposed activity is, in fact, qualified as amusement gambling. The law does not require registrants to use the attorney general's office intellectual amusement gambling registration form that uses "product" and "prize" interchangeably, nor does the law require the attorney general to respond in any way to a registration.

13-3311. Amusement gambling intellectual contests or events; registration; filing of rules; sworn statement; exceptions

- A. Before any person conducts an amusement gambling intellectual contest or event pursuant to section 13-3301, paragraph 1, subdivision (d), item (iii), the person shall register with the attorney general's office. The registration shall include:
1. The name and address of the person conducting the contest or event is John Schnaubelt, Real Poker LLC, 220 W Marco Polo Rd, Phoenix AZ 85027.
 2. The minimum dollar amount of all prizes to be awarded in Real Poker's "Arizona Poker Tour" is a \$200 guaranteed minimum cash prize pool.
 3. The duration of Real Poker's Arizona Poker Tour, a series of annual events, which comprise a points-based contest, is annual, from January 1 to December 31 each year.
 4. The statutory agent or person authorized to accept service of process in Arizona for the person conducting the contest or event is John Schnaubelt, Real Poker LLC, 220 W Marco Polo Rd, Phoenix AZ 85027.
 5. All rules governing the contest or event, including the rules applicable in case of a tie can be found in the latest versions of Robert's Rules of Poker and the Tournament Director Association rules. We do not conduct "cash" or "ring games". We only conduct tournaments, modeled after the 2015 U.S. Open Chess Championship conducted at the Arizona Biltmore, which ADoG looked determined was not an illegal chess-for-cash tournament. We believe both chess and poker tournaments are predominantly a game of skill, and that the skill involved in poker is primarily intellectual in nature (math, psychology, negotiation, deception, theater). Club members earn 1 point for attending the event (no purchase necessary, no skill or chance). Attendance points are good for bonus starting chips at public freeroll events. Club members also earn 2 points for each event they attend and participate in, plus 2 points per member they outlast. Bonus points are earned for making "the money", and 1 additional point is earned for every ten dollars tipped to the

dealers (capped at 20% of winnings). Ties split the pot (chips have no cash value). Players are allowed to chop the prize with the unanimous consent of all remaining players. No lottery or raffle is used.

6. The name and description of the product and the established purchase price for the product for this instant registration is "**Arizona Poker Tour** ", an annual series of individual, but related, amusement gambling poker tournaments (AGPT). Each AGPT entertainment event consists of: A club meeting (if scheduled) and social happy hour, which may incorporate presentations, seminars or other entertainment, often a meal or hors d'oeuvres will be included, followed by a poker tournament. Event registration is \$60 (taxable as amusement). Each event has a guaranteed minimum prize pool of at least \$200, which may be increased to more accurately reflect the anticipated number of participants (members and their bona fide guests). The established purchase price, or value, for the Arizona Poker Tour varies throughout the year, depending on the number of events, participation and overhead costs, but is established by the following formula:

APT Annual Revenue	\$40,000
Less APT overhead	\$30,000
Less Real Arizona State Poker Championship	\$10,000
Net Revenue/Value of APT	\$0

The established purchase price, or value, of the entertainment event in the above example is \$0.00. This is how we believe not-for-profit poker tournaments and a Tour may be conducted in AZ under the intellectual amusement gambling exclusion by exempt clubs and organizations. All prizes related to the Arizona Poker Tour's annual season (including a points race and public freerolls) are awarded following the final AGPT event in December. The club maintains a zero net balance at the end of the year by disbursing retained earnings, if any, to the annual freeroll championship conducted for the public benefit. There is no cost to enter this event, and it is open to the public, in furtherance of the Club's exempt purpose.

- B. Within ten days following the award of all prizes in connection with an amusement gambling intellectual contest or event, the person conducting the contest or event shall file with the attorney general's office the names and addresses of all persons who have won prizes in connection with the contest or event. Prizes are awarded at the conclusion of each AGPT event. Final prizes (points race and championship tournament) are awarded by December 31.
- C. Registrant hereby certifies and swears under oath that no increment has been added to the established purchase price of the product (entertainment event) in connection with the gambling activity (poker tournament), and that the information provided herein is true and correct to the best of my knowledge.

Event #2 (Registration of typical AGPT event)

13-3311. Amusement gambling intellectual contests or events; registration; filing of rules; sworn statement; exceptions

- A. Before any person conducts an amusement gambling intellectual contest or event pursuant to

section 13-3301, paragraph 1, subdivision (d), item (iii), the person shall register with the attorney general's office. The registration shall include:

1. The name and address of the person conducting the contest or event is John Schnaubelt, Real Poker LLC, 220 W Marco Polo Rd, Phoenix AZ 85027.
2. The minimum dollar amount of all prizes to be awarded in Real Poker's amusement gambling poker tournaments is a \$200 guaranteed minimum cash prize pool.
3. The duration of Real Poker's amusement gambling poker tournament (AGPT) events is typically 4 to 5 hours. The series of annual events, which comprise a points-based contest, is annual, from January 1 to December 31 each year.
4. The statutory agent or person authorized to accept service of process in Arizona for the person conducting the contest or event is John Schnaubelt, Real Poker LLC, 220 W Marco Polo Rd, Phoenix AZ 85027.
5. All rules governing the contest or event, including the rules applicable in case of a tie can be found in the latest versions of Robert's Rules of Poker and the Tournament Director Association rules¹. We do not conduct "cash" or "ring games". We only conduct tournaments, modeled after the 2015 U.S. Open Chess Championship conducted at the Arizona Biltmore, which ADoG looked determined was not an illegal chess-for-cash tournament. We believe both chess and poker tournaments are predominantly a game of skill, and that the skill involved in poker is primarily intellectual in nature (math, psychology, negotiation, deception, theater). Ties split the pot (chips have no cash value). Players are allowed to chop the prize with the unanimous consent of all remaining players. No lottery or raffle is used.
6. The name and description of the product and the established purchase price for the product for this instant registration is an "**amusement gambling poker tournament**" or "AGPT". Each individual AGPT entertainment event consists of: A club meeting (if scheduled) and social happy hour, which may incorporate presentations, seminars or other entertainment, often a meal or hors d'oeuvres will be included, followed by a poker tournament. Event registration is \$60 (taxable as amusement). Each event has a guaranteed minimum prize pool of at least \$200, which may be increased to accurately reflect the anticipated number of participants (members and their bona fide guests). The established purchase price, or value, for each AGPT varies, depending on the actual number of participants, but is established by the following formula:

Gross event revenue	\$60x27 entries =	\$1,620
Less guaranteed prize pool		\$800
Less additional overhead (meal, staff, reserves, etc.)		\$500
Equals net revenue (event specific)		\$320 (added to prize pool)

¹ (<http://www.homepokertourney.com/roberts-rules-of-poker.htm>) and (<http://www.pokertda.com/poker-tda-rules/>). Both rule sets have been previously submitted to the Attorney General's Office with successful event registrations for AGPT events. We do not believe it is necessary to resubmit these pages each year and that referencing the latest versions online will suffice.

Net revenue to club

\$0.00

The established purchase price, or value, of the entertainment event in the above example is \$0.00. This is how we believe not-for-profit poker tournaments may be conducted in AZ under the intellectual amusement gambling exclusion by exempt clubs and organizations. All prizes related to the Arizona Poker Tour's annual season (including a points race and public freerolls) are awarded following the final AGPT event in December.

- B. Within ten days following the award of all prizes in connection with an amusement gambling intellectual contest or event, the person conducting the contest or event shall file with the attorney general's office the names and addresses of all persons who have won prizes in connection with the contest or event. Prizes are awarded at the conclusion of each AGPT event.
- C. Registrant hereby certifies and swears under oath that no increment has been added to the established purchase price of the product (entertainment event) in connection with the gambling activity (poker tournament), and that the information provided herein is true and correct to the best of my knowledge.

Signature of Registrant _____
Printed Name John A. Schnaubelt

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Signature _____

Notary Public Commission Expires:

ADDENDUM - ADDITIONAL NOTICE RELATED TO APT/AGPT AMUSEMENT REGISTRATIONS

ARS 13-3311 does not require the attorney general's office to review or respond to the registration. The simple registration of any amusement gambling intellectual contests or events satisfies the lawful and constitutes successful registration of the proposed activity, contest or event. Regardless of the attorney general office conflicting and protected opinions about AGPTs, which may not be shared with private citizens, the only lawful response to any registration (and civil notice) is a civil cease and desist order, not an indictment or SWAT-style raid.

The stipulation and disclosure of the facts and registrant's opinions, as provided in this registration and addendum, establish that registrant is free of a guilty conscience, a necessary element of most criminal acts. The standard common law test of criminal liability is expressed in the Latin phrase "*actus reus non facit reum nisi mens sit rea*", which translated means "the act is not culpable unless the mind is guilty". Registrant has sworn under oath that there has no criminal intent in creating Real Poker LLC, a 501c7, not-for-profit social poker club for the public benefit (through taxes and a lawful alternative to tribal poker rooms) and in direct response to the tribal usurpation of the State's regulated gambling exclusion in 2002 with the passage of Prop 202, which may or may not be constitutional or legal. AGPTs are regulated by the amusement gambling exclusion, and approximately 12% of the club's gross entry fees are paid as an amusement tax. Tribal poker rooms reported an aggregate of \$30M to the NIGC in 2011, which equates to about \$1.2M added to the Arizona Benefits Fund. AGPTs could surpass this amount and allow the sport of poker to be conducted with professionally dealt tournaments as a predominantly skill-based intellectual game or contest. Especially when such excluded gambling activity benefits the State, the members, and the public. Best of all, AGPTs do NOT implode the poison pill clause of the 2003 gaming compact.

Arizona is the birthplace of the modern high-stakes version of poker. But rather than embrace this heritage, the State has historically shunned it. Congress required the abolishment of casinos as a condition to statehood. Earlier statutes explicitly prohibited the game of poker, and other named games, from being played for gambling purposes. The state issued cease and desist letters to the tribes, concerning unregulated Jackpot poker, but the tribes ignored the state, until the matter was in active arbitration, Prop 202 passed by 20,000 votes in a State with 350,000 Native Americans, many of whom vote. Poker is a morally neutral game. The immorality of gambling, a vice, comes from third party benefit. Real Poker is creating jobs, surely a public benefit, but no member benefits solely by their membership or ownership interest in the 501c7 cooperative club.

After three failed attempts to register amusement gambling poker tournaments, in 2015, registrant was informed that registration was rejected because not every participant who pays the entry fee receives the grand prize (product related to the gambling activity). Upon such information, registrant sought out other examples of amusement gambling intellectual contests and events, such as photo or essay contests, contract or duplicate bridge tournaments, and chess tournaments. Registrant identified the United States Chess Federation's 2015 U.S. Open Chess Championship, an event older than the State of Arizona, which was scheduled to be conducted at the Arizona Biltmore August 1-9, 2015. This event had a \$195 registration fee at the door, and an \$8,000 first place prize with a \$40,000 guaranteed cash prize pool projected to \$50,000 with 500 entries. Clearly the USCF is covering overhead expenses (\$47,500) in addition to funding the prize pool, at least in part, with the registration fees.

Registrant notified the attorney general, the gaming department and department of public safety that the USCF's "chess for cash" event appeared to be illegal gambling because "not every participant who pays the entry fee receives the projected \$50,000 cash prize pool".

Public records request show that the attorney general's office deferred/deflected the notice to the gaming department, as all public law enforcement agencies have historically been prone to do with gambling activities or complaints. Gambling falls way down on end of page two of the Uniform Crime Code, between jaywalking and trespassing.

The gaming department public information officer and assistant attorney general assigned as legal counsel for the department conspired to create the potentially fraudulent response, paraphrased: After investigating the "conference and championship" the department was able to determine that it did not fall under Arizona's statutory definition of illegal gambling.

After an epiphany that the "product" could be the entertainment event, not the prizes, registrant proceeded to file two identical registrations modeled after the US Open Chess championship event. One registration was for poker, the other for chess. Both registrations received "green light" letters mid-week during the US Open event.

Registrant was asked by the Attorney General's chief investigator to meet and discuss what the "green light" letter actually meant, and to help registrant understand how the SIS department works and how to interface with the office. Registrant was told in that meeting that we could state that our events were successfully registered with the Arizona Attorney General's office as a First Amendment right to freedom of speech. However, both the registration form and green light letter implicitly state that registrant may not directly or indirectly imply that the attorney general's office has reviewed or approved the proposed activity.

Registrant filed a similarly successful poker tournament registration in 2016, receiving a "green light" letter for amusement gambling poker tournaments. Registrant also discovered that Mesa Alcoholics Anonymous successfully registered a 2014 New Years Eve "sober" poker tournament with a projected \$1,000 prize pool, 100% of which went to the winner(s).

In 2017, registrant's amusement gambling registrations were rejected five (5) times, including a duplicate registration of the 2016 registration (only the dates changed) that received a green light letter. These registrations were rejected for undisclosed "missing form information as required by ARS 13-3311". The Special Investigations Section of the attorney general's office refused to provide additional information as to what was missing, suggesting we speak to an attorney.

Three months after getting the ombudsman's office involved in an effort to determine what was missing, that office informed registrant, that, "due to recently received legal advice, the Ombudsman's office could not investigate the opinions of attorney's in the attorney general's office". No doubt that legal advice came from the attorney general's office. Certainly, the conflicting opinions, which cannot be shared with a member of the public, of the sitting Department Chief of the SIS of the attorney general's office fosters the affirmative defense of void for vagueness, not just in registering a poker tournament, but a chess tournament as well.

While it is not necessary for a 501c7 club to register its events pursuant to ARS 13-3311, registrant continues to do so for two reasons. First, as a form of civil notice of intent, and secondly, to ensure that the State's "top cop" understands that our events are NOT SOCIAL gambling, but AMUSEMENT gambling, modeled to the best of our ability, after the US Open Chess Championship. The USCF has dozens of chess clubs in the southwest U.S. that rated tournaments on an annualized championship basis. Real Poker does the same for poker tournaments.

The confusion with terms like increment added and the lure analysis render the amusement gambling exclusion for intellectual contests and events potentially void, ripe and ready to be plucked and tested, but is only further compounded by the attorney general's office interchangeable use of the undefined words "prize" and "product" on its official registration form. The statute does not require registrants to use the form, but merely to provide (register) the information required by law with the attorney general's office.

Registrant believes that there may be no umbrage from the State, where all taxes are paid. Registrant's events pay three times more in taxes than what the tribal poker rooms "tithe" for essentially the same product (professionally dealt poker tournaments).

In terms of vagueness claims that would allow authorities to pursue their personal predilections, past opinions by Arizona attorney general's have stated that if "prizes were anything other than of minimal value", umbrage would be taken. ARS 13-3301.1.d.iv codified what minimal value means for "skill" gambling. That amount is \$40 per single win, or \$550 in aggregate wins. However, the U.S. Chess championship awarded an \$8,000 first place prize for "intellectual" gambling. And the PGA's Phoenix Open golf contest awarded a \$1.2M prize to the winner. Registrant's amusement gambling poker tournament product offers a minimum \$200 guaranteed prize pool at all events, with first place awarding far less than the US Open Chess championship prize.

In terms of ROI ratios, registrant's amusement gambling poker tournaments target a 10:1 return on investment for first place winners. Skill gambling under the amusement exclusion awards up to \$40 for a single win (min. \$0.25 risk), or a 160:1 ratio. Athletic contests such as the Phoenix Open award a 100:1 ratio on a \$12,000 entry fee. And intellectual contests such as the US Chess championship award a 41:1 ratio on a \$195 entry fee, more if a registrant pre-registered for less than the at-the-door fee. Registrant's events award top prizes that are 6% to 25% of the ratios other amusements award.

Commercial operations, many of which are even publicly traded companies, such as Chuck E. Cheese's, Dave & Busters and Peter Piper Pizza, enjoy a narrowly-defined exclusion for their operation as "skill gambling" amusements, and yet manage to avoid the lure analysis in their for-profit operation... and these operations target young children, exposing them perhaps for the first time, to statutory gambling, often without the children or their parents even realizing it.

Regarding the amusement gambling's lure analysis. It is hard to imagine a non-profit organization using prizes as a lure (for profit) to separate the players from their money. Especially when the players collectively manage and operate the organization that conducts the events in furtherance of its exempt purpose and for its member's social commingling and recreational entertainment. ■