



## With the “Eddie Tipton Situation” Over, What Happens Now?

By Daniel Russell

**B**y the time you are reading this magazine Eddie Tipton, a former cyber security expert for the Multi-State Lottery Association (MUSL), will likely be sitting in an Iowa prison cell for a period of up to 25 years. The facts of how the lottery industry in general, and MUSL in particular, got to this point are now solidified. The only questions now involve how the industry can work to ensure that something like this never happens again.

### What Happened Back Then?

Beginning around 2005 Mr. Tipton discovered that he was able to embed a program into the lottery software which allowed him to predict the outcome of lottery drawings. He effectively removed the “random” component from the random number generator to the tune of millions of dollars for his friends and relatives in multiple states.

What began as five and six-figure lottery winnings for friends and family expanded over the years. Mr. Tipton’s attempt to cash a Hot Lotto ticket valued at more than \$14 million at an Iowa convenience store ultimately led to his scheme being uncovered. Video surveillance from the store showed a man with a strong resemblance of Mr. Tipton purchasing the ticket and an investigation into the “Ocean’s 11-esque” attempts to cash the

ticket, which included a Canadian man's attempt to cash the ticket via telephone and a law firm's attempt to cash the ticket in-person two hours before it expired on behalf of an anonymous trust, ultimately led to the unraveling of the entire scheme.

By June of 2017 Mr. Tipton has pleaded guilty, along with his brother Tommy Tipton and friend Robert Rhodes. They will pay millions in restitution, in addition to serving significant time behind bars.

### Iowa Lottery's Reaction

Although Mr. Tipton's fraud on the lottery industry via MUSL impacted a number of states, Iowa, where MUSL is located and where the largest known fraudulent activity took place, is considered the epicenter of this matter. As would be expected, officials with the Iowa Lottery have stated that they will work to tighten security measures while also defending the Lottery's integrity.

The *Des Moines Register* and other news outlets have focused heavily on the Lottery's issues, attempted solutions and other ongoing security risks. Reports from the State Ombudsman's office identified more than 100 cases over a two-year period involving gaming related improprieties by retailers. These improprieties included situations such as micro-scratching of instant tickets, a known issue in the lottery industry where retailers expose just enough of the underlying ticket to determine if it is a winner or loser. Retailers will then keep and cash all the winning tickets and sell the non-winning tickets to unsuspecting customers.<sup>1</sup>

### Lottery vs. Casino

The gaming industry as a whole depends upon one simple premise – the customers must believe that the game they are playing is not rigged against them and they have a legitimate chance to win. Without this basic premise, the gaming industry cannot exist. We all know that “the house always wins” in the long term, but in the short term a regular person (for example someone other than a relative of Mr. Tipton) has to be able to win.

“The gaming industry as a whole depends upon one simple premise – the customers must believe that the game they are playing is not rigged against them and they have a legitimate chance to win. Without this basic premise, the gaming industry cannot exist.”

It is undeniable that efforts from the gaming industry to ensure the sanctity of its games are significant. Casino regulations require properties spend millions to ensure that slot machine software is legitimate, that table game operations operate only under surveillance, and that casino employees are licensed and background checked before ever setting foot on the gaming floor.

While the lottery industry also spends significant sums on security, there is obviously a breakdown if a single person, Mr. Tipton, had the ability to write code that broke the basic model of the lottery – no one should know the outcome of future drawings. Mr. Tipton's brother was investigated by the FBI in relation to potential fraud connected to lottery winnings almost 10 years before the Hot Lotto incident was uncovered.<sup>2</sup> It seems that MUSL and some State Lotteries are not doing enough to ensure the integrity of the games.

### United States Senate Investigation of MUSL

It has now risen to the point where the United States Senate is investigating what is going on in the wake of these scandals.<sup>3</sup> Senator John Thune, Chairman of the Senate Committee on Commerce, Science, and Transportation issued a letter to MUSL which included the following requests:

Given their popularity and the large sums of money involved, recent allegations of fraud in multi-state lottery games

*Continued on next page*



Dan Russell

*Dan Russell is special counsel in Jones Walker LLP and his practice focuses on civil and administrative litigation, gaming, and governmental law. He most recently served as General Counsel of the Florida Lottery where he managed the legal affairs of the Lottery's \$5.5 billion operations. In addition to handling procurements, bid protests, state and federal litigation, and other legal matters for the Lottery, Mr. Russell spearheaded the creation of Florida's Lottery Retailer Integrity Program.*

*Continued from previous page*

raise serious concerns. According to authorities, a lottery vendor who served as the security director for MUSL manipulated drawings by installing software code into the random number generators used by MUSL to select winning numbers that allowed him to “predict” winning numbers on specific days of the year. Six multi-million dollar prizes have been linked to the accused lottery vendor...

Other than seeking new leadership, it is unclear what additional measures MUSL is implementing to provide effective oversight to ensure the integrity of lottery games. Indeed, some have suggested that the excitement about increasingly large jackpots has eclipsed reports of insider fraud and what MUSL is doing to address the issue. Therefore pursuant to the Committee’s oversight responsibilities, please provide responses to the following:

**1.** How has MUSL resolved the instances of prior lottery vendor fraud? What specific fraud-reduction policies, including but not limited to enhanced security of random number generators, has MUSL implemented since the jackpot rigging scandal to ensure that competition in multi-state lotteries is free from fraud?

**2.** Did MUSL conduct an internal investigation of the incidents? What were the results of the investigation? Please provide any report issued.

**3.** How is MUSL providing assurance of the integrity of its games to customers?

**4.** Does MUSL anticipate any further changes to the Powerball game



“  
**As suggested by Senator Thune, the jackpots in the American lottery industry are growing to unimaginable levels, some in excess of \$1 billion. If Mr. Tipton was willing to risk his freedom for a few million dollars, what might someone attempt for more than a \$1 billion?**  
”

rules? If so, please provide a description of such changes.

While the response to this letter from Senator Thune does not appear to be publicly available, suffice it to say that if the United States Senate thinks more should be done, the industry should be inclined to agree.

### **What Happens Now?**

The specifics of what each State Lottery should do to further protect itself vary from state to state. One can imagine that the Rhode Island Lottery’s ability to hire

experts and conduct investigations is rather limited in comparison to that of the California, Florida or New York Lottery. That being said, the basic principles of gaming security always apply: lottery employees and retailers should undergo mandatory background checks, any gaming technology should be regularly audited by independent firms, and no manual drawing should ever take place without the participation of at least two licensed employees. A further suggestion to any lottery director would be to review Senator Thune’s letter and work within the agency to ensure that compliance and integrity of the operation are always placed at a level of importance above sales revenues.

One would hope that Mr. Tipton could work to assist MUSL and other State Lotteries to prevent this type of fraud in the future, much like Frank Abagnale assisted the FBI as featured in *Catch Me If You Can*, but only time will tell.

As suggested by Senator Thune, the jackpots in the American lottery industry are growing to unimaginable levels, some in excess of \$1 billion. If Mr. Tipton was willing to risk his freedom for a few million dollars, what might someone attempt for more than a \$1 billion? ♣

<sup>1</sup> <http://www.desmoinesregister.com/story/news/investigations/2017/06/05/iowa-lottery-takes-pass-fixes-stop-fraud-blame-money-critics-say/305961001/>

<sup>2</sup> <http://www.desmoinesregister.com/story/news/crime-and-courts/2017/06/19/fbi-missed-rigged-jackpot-2006-before-lottery-scheme-grew/408496001/>

<sup>3</sup> [https://www.commerce.senate.gov/public/\\_cache/files/16d4da06-8960-44ab-a836-b05f23db5f56/69CB7B7A2983C7DF6086D7F63F19BD89\\_jrt-letter-to-musl-re-lottery-integrity.pdf](https://www.commerce.senate.gov/public/_cache/files/16d4da06-8960-44ab-a836-b05f23db5f56/69CB7B7A2983C7DF6086D7F63F19BD89_jrt-letter-to-musl-re-lottery-integrity.pdf)