

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
vs.)
)
DAVID ROY TUNE,)
D.O.B. 07-11-1949)
SSN: [REDACTED])
)
CLYDE LEE "C.L." RICHARDS)
D.O.B.: 02-25-1957)
SSN: [REDACTED])
)
Defendants.)

Case No. CF-2011-2993

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

MAY 27 2011

PATRICIA PRESLEY, COURT CLERK
by _____ Deputy

INDICTMENT

FOR:

VIOLATION OF THE ANTI-COMMERICAL GAMBLING STATUTES in violation of Title 21 O.S. § 982 [Counts 1 – 20]

CONSPIRACY TO VIOLATE THE ANTI-COMMERICAL GAMBLING ACT in violation of Title 21 O.S. § 987. [Count 21]

ENGAGING IN A PATTERN OF CRIMINAL OFFENSES in violation of Title 21 O.S. § 425. [Count 22]

DISSEMINATION OF GAMBLING INFORMATION in violation of Title 21 O.S. §987. [Count 23]

USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT in violation of Title 21 O.S. §1958. [Counts 24 – 29]

RACKETEERING in violation of Title 22 O.S. § 1403. [Count 30]

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OKLAHOMA:

By the order of the Supreme Court of Oklahoma, the Thirteenth Multicounty Grand Jury was convened with its principal site to be in Oklahoma City, Oklahoma County, Oklahoma, to

serve from January 24, 2011 until July 24, 2012 or until the designated presiding judge determines the Thirteenth Multicounty Grand Jury has reached reasonable completion of its investigations, but in any event, no more than twenty-four (24) months from the commencement of its term. That the said Multicounty Grand Jury of the State of Oklahoma, being composed of good and lawful men and woman, legally drawn and summons according to law and then and there examined, empanelled, sworn and charged according to law to diligently inquire into and true presentment make of all public offenses against the State of Oklahoma committed and triable within the State of Oklahoma, upon their oath and in the name and by the authority of the State of Oklahoma, do present and find that:

COUNT 1: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 28th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Pottawatomie County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE who operated an on-line computer based website, www.gato21.com, received offers from Jason O'Connor to bet on sporting events and other games of chance. Jason O'Connor, using betting number B28, pledged money and other things of value in exchange for said bet. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 2: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in McClain County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE who operated an on-line computer based website, www.gato21.com, received offers from Ron Alan McCalip to bet on sporting events and other games of chance. Ron Alan McCalip, using betting number B25, pledged money and other things of value in exchange for said bet. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 3: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 7th day of May, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE using an on-line computer based website, www.gato21.com, received offers from Roland Benavides to bet on sporting events and other games of chance. Roland Benavides pledged money and other things of value in exchange for said bet. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 4: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE using an on-line computer based website, www.gato21.com, received offers from Kenneth Doug Kennon, to bet on sporting events and other games of chance. Kenneth Doug Kennon, using betting number B23, pledged money and other things of value in exchange for said bet. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 5: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE using an on-line computer based website, www.gato21.com, received offers from Michael Jones to bet on sporting events and other games of chance. Michael Jones using betting number B8, pledged money and other things of value in exchange

for said bet. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 6: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 15th day of September, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE using an on-line computer based website, www.gato21.com, received offers from Mark Miller to bet on sporting events and other games of chance. Mark Miller, using betting number B11, logged onto www.gato21.com and pledged money and other things of value in exchange for said bet. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 7: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 28th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Pottawatomie County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

After placing bets through the use of an on-line computer based website,

www.gato21.com, Jason O'Connor owed to **DAVID ROY TUNE** proceeds of the bets. **DAVID ROY TUNE** traveled from Seminole County, Oklahoma to Pottawatomie County, Oklahoma to exchange money or other thing of value with Jason O'Connor. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 8: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 1st day of October, 2009, A.D., through the 28th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in McClain County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

After placing bets through the use of an on-line computer based website, www.gato21.com, Ron Alan McCalip owed to **DAVID ROY TUNE** proceeds of the bets. **DAVID ROY TUNE** traveled from Seminole County, Oklahoma to McClain County, Oklahoma to exchange money or other thing of value with Ron Alan McCalip in settlement of said bets. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 9: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 1st day of October, 2009, A.D., through the 28th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State,

DAVID ROY TUNE who acting knowingly and intentionally operated a commercial gambling operation to wit:

After placing bets through the use of an on-line computer based website, www.gato21.com, Mike Jones owed to **DAVID ROY TUNE** proceeds of the bets. **DAVID ROY TUNE** traveled from Seminole County, Oklahoma to Cleveland County, Oklahoma to exchange money or other thing of value with Mike Jones in settlement of said bets. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 10: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 1st day of October, 2009, A.D., through the 28th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

After placing bets through the use of an on-line computer based website, www.gato21.com, Mark Miller owed to **DAVID ROY TUNE** proceeds of the bets. **DAVID ROY TUNE** traveled from Seminole County, Oklahoma to Cleveland County, Oklahoma to exchange money or other thing of value with Mark Miller in settlement of said bets. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 11: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 1st day of October, 2009, A.D., through the 28th day of

February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

After placing bets through the use of an on-line computer based website, www.gato21.com, Mike Jones owed to **DAVID ROY TUNE** proceeds of the bets. **DAVID ROY TUNE** traveled from Seminole County, Oklahoma to Cleveland County, Oklahoma to exchange money or other thing of value with Mike Jones in settlement of said bets. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 12: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 1st day of October, 2009, A.D., through the 28th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Cleveland County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

After placing bets through the use of an on-line computer based website, www.gato21.com, David Robertson owed to **DAVID ROY TUNE** proceeds of the bets. **DAVID ROY TUNE** traveled from Seminole County, Oklahoma to Cleveland County, Oklahoma to exchange money or other thing of value with David Robertson in settlement of said bets. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21

of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 13: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 2nd day of September, 2009, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$1,600.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 14: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 5th day of January, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$2,500.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 15: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 5th day of February, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$2,500.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 16: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 8th day of April, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$2,091.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 17: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 18th day of May, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$1,579.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 18: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 17th day of August, 2010, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$5,600.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 19: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 2nd day of December, 2010, A.D., the crime of

VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$2,500.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 20: VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 21st day of July, 2009, A.D., the crime of **VIOLATION OF THE ANTI-COMMERCIAL GAMBLING ACT** was feloniously committed in Oklahoma County, State of Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly and intentionally operated a commercial gambling operation to wit:

DAVID ROY TUNE forwarded proceeds derived from bets placed using an on-line computer based website, www.goto21.com, to Arturo Vargas by causing \$2,000.00 to be deposited in Bank of America account number ending in 8871. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 982 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 21: CONSPIRACY TO VIOLATE ANTI-COMMERCIAL GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **CONSPIRACY TO VIOLATE ANTI-COMMERCIAL**

GAMBLING ACT was feloniously committed in several counties within the State of Oklahoma including but not limited to, Oklahoma County, Cleveland County, Seminole County, and throughout the State of Oklahoma by **DAVID ROY TUNE and CLAUDE LEE "C.L." RICHARDS**. During all times set forth herein, and within said Counties and State, **DAVID ROY TUNE and CLAUDE LEE "C.L." RICHARDS** who acting jointly, knowingly agreed to violate the Anti-gambling act, to wit:

DAVID ROY TUNE entered into an agreement with Arturo Vargas in which a computer based website, www.gato21.com was created to facilitate the practice of commercial gambling. The website became active on August 22, 2008 and provided a variety of information for players to access using their login and password. Players were assigned a number and generally used their initials as their password.

Once players accessed the website and placed their bets, **DAVID ROY TUNE** monitored the wagers to determine which players owed money to **DAVID ROY TUNE** and which players were owed money. **DAVID ROY TUNE** settled each bet by traveling to the players' respective cities and counties, met with the player and exchange money. At times **DAVID ROY TUNE** prohibited players from placing bets until such time as their accounts were brought current.

As part of his agreement with Arturo Vargas, **DAVID ROY TUNE** was required to forward a fee for use of the computer program operated through www.gato21.com. **DAVID ROY TUNE** used a portion of money collected from individuals who were unsuccessful in their wagers to Arturo Vargas. **DAVID ROY TUNE** personally and with the aid of his wife, Denise Tune, deposited money into a bank account held at Bank of America in Oklahoma City, Oklahoma.

In the event a player accrued a delinquent balance on debts derived from **DAVID ROY**

TUNE'S gambling operation, **DAVID ROY TUNE** initiated contact with those players in an effort to collect the unlawful debt. One such debt was owed by Roland Benavides. **DAVID ROY TUNE** instructed **CLAUDE LEE "C.L." RICHARDS** to threaten, harass and/or vex Roland Benavides and cause him harm if Roland Benavides refused to pay **DAVID ROY TUNE** the illegal gambling proceeds. **CLAUDE LEE "C.L." RICHARDS** in fact contacted Roland Benavides at his home in Cleveland County, Oklahoma on May 7, 2010. **CLAUDE LEE "C.L." RICHARDS** made threats to Roland Benavides in relation to said debt and reported his activity back to **DAVID ROY TUNE**.

Said acts by **DAVID ROY TUNE** and **CLAUDE LEE "C.L." RICHARDS** are contrary to the provisions of section 421 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 22: ENGAGING IN A PATTERN OF CRIMINAL OFFENSES

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **ENGAGING IN A PATTERN OF CRIMINAL OFFENSES** was feloniously committed in multiple counties including but not limited to, Oklahoma County, Seminole County, and Cleveland County, State of Oklahoma by **DAVID ROY TUNE** and **CLAUDE LEE "C.L." RICHARDS**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** and **CLAUDE LEE "C.L." RICHARDS**, who acting jointly knowingly engaged in a gambling organization in multiple counties throughout the state, to wit:

DAVID ROY TUNE operated a commercial gambling operation primarily located in Seminole County in which players located throughout the state placed bets on an on-line computer website, www.gato21.com. **DAVID ROY TUNE** accepted bets from Jason O'Connor

located in Pottawatomie County, Ron Alan McCalip in McClain County, Doug Kennon in Cleveland County, Mike Jones in Cleveland County, and Mark Miller in Cleveland County. To complete the bet or wager **DAVID ROY TUNE** traveled to those respective counties to either pay proceeds owed by **DAVID ROY TUNE** for successful bets or collect proceeds owed to **DAVID ROY TUNE** for unsuccessful bets.

CLAUDE LEE "C.L." RICHARDS traveled from Seminole County, Oklahoma to Cleveland County, Oklahoma at the direction of **DAVID ROY TUNE** in an attempt to collect an outstanding and unlawful gambling debt from Roland Benavides. **DAVID ROY TUNE** paid to Arturo Vargas a portion of gambling proceeds in Oklahoma County, Oklahoma. Said acts by **DAVID ROY TUNE** and **CLAUDE LEE "C.L." RICHARDS** are contrary to the provisions of section 425 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 23: DISSEMINATION OF GAMBLING INFORMATION

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **DISSEMINATION OF GAMBLING INFORMATION** was feloniously committed throughout the State of Oklahoma with his primary business operation in Seminole County, Oklahoma by **DAVID ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE** who acting knowingly caused information to be used in making or settling bets, to wit:

DAVID ROY TUNE operated a computer based on-line website, www.gato21.com, in which individuals seeking to wager money on sporting events or other games of chance extracted information commonly called "odds" or "the line". This information provided handicap statistics thereby allowing the player to estimate the probability of a successful outcome of a wager on a

sporting event. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 987 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 24: USING A COMPUTER TO VIOLATE THE ANTI- GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 28th day of February, 2010, A.D., the crime of **USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT** was feloniously committed in Seminole County, State of Oklahoma by **ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE**, who acting knowingly utilized a computer to violate the Anti-Gambling Act, to wit:

DAVID ROY TUNE utilized a computer to operate an on-line website, www.gato21.com, which allowed Jason O'Connor to access data and communicate with **DAVID ROY TUNE** to obtain gambling information. **DAVID ROY TUNE** accepted bets from Jason O'Connor on sporting events and other games of chance using electronically transferred data. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 1958 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 25: USING A COMPUTER TO VIOLATE THE ANTI- GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT** was feloniously committed in Seminole County, State of Oklahoma by **ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE**, who acting knowingly utilized a computer to violate the Anti-Gambling Act, to wit:

DAVID ROY TUNE utilized a computer to operate an on-line website, www.gato21.com, which allowed Ron Alan McCalip to access data and communicate with **DAVID ROY TUNE** to obtain gambling information. **DAVID ROY TUNE** accepted bets from

Ron Alan McCalip on sporting events and other games of chance using electronically transferred data. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 1958 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 26: USING A COMPUTER TO VIOLATE THE ANTI- GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT** was feloniously committed in Seminole County, State of Oklahoma by **ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE**, who acting knowingly utilized a computer to violate the Anti-Gambling Act, to wit:

DAVID ROY TUNE utilized a computer to operate an on-line website, www.gato21.com, which allowed Mark Miller to access data and communicate with **DAVID ROY TUNE** to obtain gambling information. **DAVID ROY TUNE** accepted bets from Mark Miller on sporting events and other games of chance using electronically transferred data. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 1958 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 27: USING A COMPUTER TO VIOLATE THE ANTI- GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of **USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT** was feloniously committed in Seminole County, State of Oklahoma by **ROY TUNE**. During all times set forth herein, and within said County and State, **DAVID ROY TUNE**, who acting knowingly utilized a computer to violate the Anti-Gambling Act, to wit:

DAVID ROY TUNE utilized a computer to operate an on-line website, www.gato21.com, which allowed Doug Kennon to access data and communicate with **DAVID**

ROY TUNE to obtain gambling information. DAVID ROY TUNE accepted bets from Doug Kennon on sporting events and other games of chance using electronically transferred data. Said acts by DAVID ROY TUNE are contrary to the provisions of section 1958 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 28: USING A COMPUTER TO VIOLATE THE ANTI- GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT was feloniously committed in Seminole County, State of Oklahoma by ROY TUNE. During all times set forth herein, and within said County and State, DAVID ROY TUNE, who acting knowingly utilized a computer to violate the Anti-Gambling Act, to wit:

DAVID ROY TUNE utilized a computer to operate an on-line website, www.gato21.com, which allowed Roland Benavides to access data and communicate with DAVID ROY TUNE to obtain gambling information. DAVID ROY TUNE accepted bets from Roland Benavides on sporting events and other games of chance using electronically transferred data. Said acts by DAVID ROY TUNE are contrary to the provisions of section 1958 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 29: USING A COMPUTER TO VIOLATE THE ANTI- GAMBLING ACT

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D., the crime of USING A COMPUTER TO VIOLATE THE ANTI-GAMBLING ACT was feloniously committed in Seminole County, State of Oklahoma by ROY TUNE. During all times set forth herein, and within said County and State, DAVID ROY TUNE, who acting knowingly utilized a computer to violate the Anti-Gambling Act, to wit:

DAVID ROY TUNE utilized a computer to operate an on-line website,

www.gato21.com, which allowed Mike Jones to access data and communicate with **DAVID ROY TUNE** to obtain gambling information. **DAVID ROY TUNE** accepted bets from Mike Jones on sporting events and other games of chance using electronically transferred data. Said acts by **DAVID ROY TUNE** are contrary to the provisions of section 1958 of Title 21 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

COUNT 30: RACKETEERING

Commencing on or about the 22nd day of August, 2008, A.D., through the 22nd day of September, 2010, A.D. in Oklahoma County, Oklahoma, **DAVID ROY TUNE** and **CLAUDE LEE "C.L." RICHARDS** individually and together with other persons, knowingly and feloniously committed the crime of RACKETEERING, to wit:

1. On or about August 22, 2008, **DAVID ROY TUNE** and Arturo Vargas formed a partnership wherein an on-line computer website, www.gato21.com was created in which those individuals accessing the website retrieved gambling information, placed bets, recorded winning and/or losing bets and tallied money or other valuable thing to be paid or received by **DAVID ROY TUNE** in settlement of said bet.
2. On or about 22nd day of August, 2008 to the 28th day of February, 2010, Jason O'Connor accessed the website, www.gato21.com, owned by Arturo Vargas and operated by **DAVID ROY TUNE**. Jason O'Connor placed bets on sporting events and other games of chance. Jason O'Connor pledged money and other things of value in exchange for said bet
3. On or about 22nd day of August to the 22nd day of September, 2010, Roland Benavides accessed the website, www.gato21.com, owned by Arturo Vargas and operated by **DAVID ROY TUNE**. Roland Benavides placed bets on sporting events

and other games of chance. Roland Benavides pledged money and other things of value in exchange for said bet.

4. On or about 22nd day of August to the 22nd day of October, 2009, Ron Alan McCalip accessed the website, www.gato21.com, owned by Arturo Vargas and operated by **DAVID ROY TUNE**. Ron Alan McCalip placed bets on sporting events and other games of chance. Ron Alan McCalip pledged money and other things of value in exchange for said bet.
5. On or about 22nd day of August to the 22nd day of October, 2009, Mark Miller accessed the website, www.gato21.com, owned by Arturo Vargas and operated by **DAVID ROY TUNE**. Mark Miller placed bets on sporting events and other games of chance. Mark Miller pledged money and other things of value in exchange for said bet.
6. On or about 22nd day of August to the 22nd day of October, 2009, Mike Jones accessed the website, www.gato21.com, owned by Arturo Vargas and operated by **DAVID ROY TUNE**. Mike Jones placed bets on sporting events and other games of chance. Mike Jones pledged money and other things of value in exchange for said bet.
7. On or about 22nd day of August to the 22nd day of October, 2009, Doug Kennon accessed the website, www.gato21.com, owned by Arturo Vargas and operated by **DAVID ROY TUNE**. Doug Kennon placed bets on sporting events and other games of chance. Doug Kennon pledged money and other things of value in exchange for said bet.
8. On or about the 1st day of October to the 28th day of February, 2010, **DAVID ROY**

- TUNE who was assisted by his wife, Denise Tune, met with Jason O'Connor to settle debts owed to **DAVID ROY TUNE**.
9. On or about the 1st day of October to the 28th day of February, 2010, **DAVID ROY TUNE** who was assisted by his wife, Denise Tune, met with Mark Miller to settle debts owed to **DAVID ROY TUNE**.
 10. On or about the 1st day of October to the 28th day of February, 2010, **DAVID ROY TUNE** who was assisted by his wife, Denise Tune, met with Alan McCalip to settle debts owed to **DAVID ROY TUNE**.
 11. On or about the 1st day of October to the 28th day of February, 2010, **DAVID ROY TUNE** who was assisted by his wife, Denise Tune, met with Mike Jones to settle debts owed to **DAVID ROY TUNE**.
 12. On or about the 2nd day of December, 2009 **DAVID ROY TUNE** forwarded \$2,500.00 to Arturo Vargas which was comprised of money derived from proceeds of an on-line computer based website, www.gato21.com, by depositing said money into an account held at Bank of America.
 13. On or about the 5th day of January, 2010 **DAVID ROY TUNE** forwarded \$2,500.00 to Arturo Vargas which was comprised of money derived from proceeds of an on-line computer based website, www.gato21.com, by depositing said money into an account held at Bank of America.
 14. On or about the 5th day of February, 2010 **DAVID ROY TUNE** forwarded \$2,500.00 to Arturo Vargas which was comprised of money derived from proceeds of an on-line computer based website, www.gato21.com, by depositing said money into an account held at Bank of America.

15. On or about the 18th day of May, 2010 **DAVID ROY TUNE** forwarded \$1,579.00 to Arturo Vargas which was comprised of money derived from proceeds of an on-line computer based website, www.gato21.com, by depositing said money into an account held at Bank of America.
16. On or about the 21st day of July, 2010 **DAVID ROY TUNE** forwarded \$2,000.00 to Arturo Vargas which was comprised of money derived from proceeds of an on-line computer based website, www.gato21.com, by depositing said money into an account held at Bank of America.
17. On or about the 17th day of August, 2010 **DAVID ROY TUNE** forwarded \$5,600.00 to Arturo Vargas which was comprised of money derived from proceeds of an on-line computer based website, www.gato21.com, by depositing said money into an account held at Bank of America.
18. On or about the 7th day of May, 2010 **CLAUDE LEE "C.L." RICHARDS** traveled to Cleveland County, Oklahoma to collect gambling proceeds owed to **DAVID ROY TUNE** from Roland Benavides. **CLAUDE LEE "C.L." RICHARDS** approached Roland Benavides, demanded money from Roland Benavides, and threatened repercussions if Roland Benavides refused to pay.

Said acts by **DAVID ROY TUNE** and **LEE "C.L." RICHARDS** are contrary to the provisions of Section 1403 of Title 22 of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma

TRUE BILL (X)

NO BILL ()

William L. Tucker

FOREMAN

13TH MULTICOUNTY GRAND JURY

Penalties:

- Counts 1-20: A violation the anti-commercial gambling statutes shall be a felony punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years or a fine of Twenty-five Thousand Dollars (\$25,000.00) or both such fine and imprisonment.
- Count 21: Conspiracy shall be punished to the same extent as provided for in the section of this act which such person conspired to violate thus punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years or a fine of Five Thousand Dollars (\$5,000) or both such fine and imprisonment.
- Count 22: Engaging in a pattern of criminal activity shall be punished in the State Penitentiary for a term not exceeding two (2) years or imprisonment in county jail for a term not exceeding one (1) year or by a fine in an amount not more than Twenty-five Thousand Dollars (\$25,000.00) or by both such fine and imprisonment. Such punishment shall be in addition to any penalty imposed for any offense involved in the pattern of criminal offenses.
- Counts 23: Disseminating gambling information shall be a felony and shall be punished by imprisonment of not more than five (5) years or a fine of not more than Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.
- Counts 24-29: Using a computer to violate Oklahoma statutes shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term of not more than five (5) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.
- Count 30: Racketeering shall be a felony and shall be punished by a term of imprisonment in the State Penitentiary for a term of not less than ten (10) years.

WITNESSES APPEARING BEFORE THE MULTICOUNTY GRAND JURY:

Lt. Doug Kimberlin, Oklahoma City Police Department, 701 Colcord, Oklahoma City, OK

Roland Benavides, 3331 Hollister Trail, Norman, OK 73071

Denise Tune, c/o Neal Lynn, Attorney at Law, 2910 N. Classen, OKC, OK

William Davis, 10813 Garnada Lane, OKC, OK 73165

Alan McCalip, 402 Morehead, Washington, OK 73093

Jason O'Connor, 9 Quail Ridge, Shawnee, OK 74804

Jeremy Hollifield, 5611 Sally Brown Road, Muskogee, OK 74401

Colley Andrews, 305 W. Waterfront Drive, Tuttle, OK 73089

Claude Richards, 115 E. Dale, Norman, OK 73069

Mack Shelton, 546 Center, Shawnee, OK 74801

David Roy Tune, 14064 NS 354.5 Road, Konawa, OK 74849