

# DE-LAP Zone

A Message from the Delaware Lawyers Assistance Program

## Mark's Woes

By Carol P. Waldhauser, Executive Director

**A**s the strong afternoon sun penetrated the courtroom shutters, the bailiff announced, "All rise." Up against very serious federal charges, the defendant, Mark, followed robotically as the instructions were called out. His thoughts, however, turned momentarily to a different place and time. Perhaps it was the afternoon sun that triggered the flashback or the fear of the trial, but whatever the reason, Mark thought about the sunny afternoon he graduated from an Ivy League law school 10 years ago. In those days, Mark thought nothing could ever go wrong!

Upon graduation from law school, Mark, highly competitive and energetic, eagerly accepted an opportunity to work in one of the area's best firms. Soon, Mark was a successful lawyer who earned hundreds of thousands of dollars annually. Financially secure, Mark married and had children. All continued to go well until one day, Mark realized that he had a problem. This problem would turn his world upside-down.

Ironically, Mark seemed to have it all, although he knew that he was often restless and easily bored. Subsequently, Mark began to look for ways to feel better and be amused. At first, Mark found amusement in betting online. Poker was not only fun; it was challenging. Sadly for Mark, however, it was also addictive. Initially, Mark spent about \$300 a month on gambling; later that turned into \$300 a week and then \$300 per day. Mark admitted that in the early days of his gambling, it made him feel better. Gambling was a way to relax and not to think about his cases or his responsibilities.

Unfortunately, at some point, Mark's

persistent and recurrent maladaptive gambling behavior disrupted his personal, family, and professional pursuits. He became preoccupied with gambling (e.g. reliving past gambling experiences, planning the next gambling venture, or thinking of ways to get money with which to gamble). Similar to many pathological gamblers, Mark sought "action" (an aroused, euphoric state) or excitement even more than money. As he made increasingly larger bets and/or took greater risks in order to continue to produce the desired level of excitement, Mark began to lie to family members, therapists, and others to conceal the extent of his involvement with gambling.

Equally as hurtful, Mark began to borrow resources leading to the forgery, fraud, theft, and embezzlement charges against him today. Admittedly, Mark states that his negative behavior and gambling addiction resulted in losing his home, his family, and his license to practice law. Mark embezzled nearly two million dollars from unsuspecting clients.

Suddenly, Mark heard the Judge's voice and reality set in. It took six long years for Mark to get to this point and he was ready to take responsibility for his actions.

### The Problem

Gambling has existed since ancient times and there is evidence that most cultures supported it in some form. Today, more than ever before, gambling has become acceptable and profitable. For most people, gambling is fun; but for some it can lead to financial ruin, loss of jobs, broken homes, physical illnesses, criminal acts, and suicide attempts. Ac-

ording to the Diagnostic and Statistical Manual (DSM-IV):

Pathological gambling is a mental health disorder in which an individual has a psychologically uncontrollable preoccupation with the urge to gamble, eventually resulting in damage to vocation, family, and social relationships. It is characterized by a chronic and progressive inability to resist the impulse to gamble. (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV-TR) P. 671.

Specifically narrowing the scope to the profession in his article "Gambling," Paul R. Ashe states:


A lawyer who is a compulsive gambler can be very dangerous. By the nature of their practice, lawyers are often exposed to fiduciary relationships involving large sums of money, which serve as the commodity or "drug of choice" for the gambler. A lawyer who may already be predisposed to gamble, whether on a casino game, horse or dog race, lottery ticket, or via the Internet, should be aware of some of the inherent danger signs that could result in complete devastation, including prison, bankruptcy, or death.

In Delaware, certain types of gambling are legal. For that reason, Delaware offers enormous information on the problems associated with compulsive gambling and confidential treatment available. In fact, the mission of the Delaware Council on Gambling Problems is to raise public awareness that compulsive gambling is a treatable disorder and to facilitate the development of a network of services for

compulsive gamblers and their families in Delaware. Signs of a compulsive/addictive gambler may include, but are not limited to:

- Becoming increasingly obsessed with the idea of gambling.
- Becoming hooked on the high of gambling.
- Gambling more and more money, more and more often over time.
- Using gambling as a way to escape life's problems.
- Loss of interest in normal activities.
- Trying, but failing, to stop or control gambling.
- Acting restless and irritable when not gambling.
- Having an attitude that no win is ever big enough.
- Lying about losses and exaggerating wins.
- "Chasing" their losses.
- Betting until their last dollar is gone.
- Getting in worse and worse financial and emotional trouble over time.
- Needing to be "bailed out" financially.
- Begging for, borrowing, or stealing money to gamble or pay off gambling related debts.

As for Mark, generally compulsive gambling is not considered a valid defense to criminal charges. It is, however, in many tribunals allowed as a mitigating factor in the disposition. Mark demonstrated remorse for his past misdeeds and could show clearly his sincere acceptance and recovery from his disease. Today, Mark knows that his disease is chronic and he must treat it one day at a time regardless of the outcome of his trial.

If you, or someone you know is gambling for more than fun, they may have a problem that is affecting their professionalism and quality of life, call the confidential line of the Delaware Lawyers Assistance Program (302) 777-0124 or 1-877-24DELAP for information and help or e-mail [cwaldhauser@de-lap.org](mailto:cwaldhauser@de-lap.org). 

## *Report of the Nominating Committee*

The Nominating Committee met on February 26, 2008 and nominated the following for officers and membership on the Executive Committee for the year July 1, 2008 to June 30, 2009:

Vice President-at-Large:	Matthew M. Greenberg
Vice President, New Castle County:	Theresa V. Brown-Edwards
Secretary:	Gregory Brian Williams
Assistant Secretary:	Deborah I. Gottschalk
Treasurer:	James G. McGiffin, Jr.
Assistant Treasurer:	Jessica Zeldin
Members-at-Large:	Crystal L. Carey
	Miranda D. Clifton
	Richard A. Forsten
	Frederick W. Iobst
	Karen Jacob Loudon
	Yvonne Takvorian Saville

The Nominating Committee nominated the following to be DSBA representative to the Delaware Bar Foundation:

David N. Rutt – 3 year term

This report is being filed pursuant to Section 6.16(e) of the Association bylaws. Section 6.16(f) of the Bylaws of the Association provides:

"Any ten members of the Association may nominate other members in good standing of the Association for any office for which nominations have been made by the committee by filing a signed written petition with the Secretary of the Association within ten days after the report of the Committee has been published. If a petition nominating other candidates be duly filed the Secretary shall publish notice, in a Bar Association publication or by any other reasonable means of notification, of the petition with the name(s) of the candidate(s) proposed so that the membership has notice of at least fourteen days prior to the election of the names of all candidates so nominated. There shall be no other nominations."

## **Pitfalls of Small Firm Practice 2008**

Thursday, April 24, 2008  
3.5 hours CLE credit

Delaware State Bar Association  
301 N. Market St., Wilmington, DE 19801