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Race car driver Scott Tucker drew an elaborate facade around his payday loan businesses ^[2]

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A deputy sheriff in Olathe, Kan., ticketed race car driver Scott Tucker late one night in October 2008 after clocking Tucker's Mercedes-Benz CLS63 going 86 mph in a stretch of Interstate 35 posted at 60 mph.

Two days later, Tucker's wife, brother and sister-in-law as well as several businesses with ties to the payday loan mogul suddenly donated a total of \$4,000 to the campaign of a candidate for local district attorney — the office that prosecutes traffic tickets.

Among the businesses that donated \$1,000 to the campaign were two payday loan companies that the Miami Tribe of Oklahoma claims to own.

Weeks later, the ticket was reduced to improper parking, to the surprise of the deputy who ticketed Tucker. The change kept Tucker's driving record clean.

Whether or not the contributions played a role in ticket being reduced, the episode shows a strange commingling of the interests of Tucker and the Indian tribe. Regulators in Colorado and California are investigating whether Tucker is merely using the tribes to circumvent state laws.

Tucker started a controversial online payday lending business that several states have tried to shut down. Tucker now says Indian tribes own the business and he is just an employee. That arrangement gives the payday lending business the cloak of sovereign immunity and has stymied the efforts of state regulators to stop the company from making illegal loans in their states.

Yet an *iWatch News* investigation found that Tucker is living the life of luxury and spending a fortune on his racing hobby, while the tribes may only be getting a small piece of the revenue from the business.

The tactic of affiliating with Indian tribes has been widely copied among online payday lenders, frustrating state regulators and drawing the condemnation of payday lending's storefront brethren.

Storefront lenders generally don't do business in 18 states that restrict payday lending. And those that have ventured into the online market usually get licensed and obey state laws, said Jean Ann Fox of the nonprofit Consumer Federation of America.

The head of the payday lending trade group Community Financial Services Association of America, D. Lynn DeVault, said that using tribes to avoid state laws violates ^[4] the association's standards "and would lead to the automatic expulsion of a company in violation."

Critics call the tactic “rent-a-tribe.”

Tucker acknowledged Friday [5] for the first time that he works for AMG Services, the paydaylending business that the Miami Tribe of Oklahoma says it owns and operates. He says a confidentiality agreement prevents him from talking about it.

The chief of the Miami tribe, Thomas E. Gamble, defended the business [6], saying the tribe owns and operates it. Gamble says the business obeys tribal and federal laws but he didn't say whether it obeys state laws. At least five states have tried through legal proceedings to shut down the business for violating state laws. Several other states have either instructed the business to stop making loans or warned consumers about it.

Tucker, who lives in the upscale Kansas City suburb of Leawood, told a judge that he no longer controls the payday lending business. But *iWatch News* found evidence in court and public records that Tucker still pulls the strings on the business he founded. The evidence includes:

- Among the companies that gave \$500 campaign donations to the prosecutor on the same day as several of Tucker's relatives were two tribal businesses, AMG Services and MNE Services.
- AMG Services operates out of an office complex in Overland Park, the same office that Tucker lists as his own in Securities and Exchange Commission filings [7].
- AMG Services pays [8] the property tax on Tucker's \$8 million vacation retreat in Aspen, Colo., according to county records.
- One of AMG Services biggest vendors said in a lawsuit [9] that Scott Tucker in 2009 was the owner and chief officer of AMG Services.

Most revealing of all, bank records show Tucker and his brother Blaine were the only the two people able to sign for four payday lending businesses of one tribe. The tribes may only receive a sliver of the revenue from the payday lending business.

Rags to riches story

Scott Tucker's life is both a rags-to-riches and get-rich-quick story. He grew up in the Kansas City area, graduating from a Jesuit high school and attending Kansas State University for two years, where he studied business administration. Tucker has a criminal past. In April 1988, at the age of 26, he borrowed \$50,000 from American Bank of Kansas City, offering a new Porsche as collateral. Court records show that Tucker lied on the application; he had sold the sports car months earlier.

A year later, Tucker wrote a bad check for \$1,200 to a moving company hired to transfer two loads of used furniture for a business, according to court records.

In the meantime, Tucker participated in a bogus loan scheme [10] to bilk money out of businesses, court records reveal. While a partner in Oregon ran newspaper and magazine ads throughout the country offering commercial loans, Tucker posed as the president of a seemingly high-powered investment bank in Overland Park called Chase, Morgan, Stearns & Lloyd. The operation was a fraud, collecting more than \$100,000 in “advance fees” from at least 15 borrowers without providing any loans.

Tucker ultimately pleaded guilty in federal court to two felony charges of mail fraud and making a false statement to a bank. A Missouri state judge found him guilty of a felony charge of passing a bad check. He was sentenced for all three crimes to serve a year in Leavenworth federal penitentiary, followed by three years of probation. He got out of prison on June 8, 1992.

Then Tucker went into the short-term lending business. In 1997, he met Philadelphia businessman

Charles Hallinan, who offered the following account ^[11] in a lawsuit he would eventually bring against Tucker.

Hallinan was already in the payday lending business. The two hit it off. Hallinan viewed Tucker as a protégé and decided to bankroll another payday lending company with him, making Tucker president of the company and letting him run it from Overland Park. Tucker agreed in writing not to open any competing businesses.

On Sept. 19, 1997, Hallinan agreed to loan Tucker \$500,000. Tucker signed ^[12] the revolving loan note.

A month later, Tucker filed ^[13] for Chapter 7 bankruptcy. In the bankruptcy records, Tucker did not disclose his new business as president of a payday lending company. Tucker listed a total debt of \$583,000, including more than \$220,000 owed to the IRS.

The court cleared Tucker of his debts. Though Tucker had promised Hallinan he would not open any competing businesses, Tucker started ^[14] a new company in 2001 called CLK Management, listing ^[15] himself as the owner. Soon, Tucker was setting up dummy companies in Carson City, Nev., using them as mail drops for payday lenders he called Cash Advance, Preferred Cash Loans and UnitedCashLoans.

Starting in 2004, Tucker registered new trade names for payday lenders, including Ameriloan, UnitedCashLoans, US FastCash, 500Fastcash and OneClickCash. Court documents show that by 2005, Tucker had teamed up with Indian tribes, continuing to run the payday lenders out of Overland Park.

CLK Management was becoming a major business. By 2006, it took up two floors of an office complex in Overland Park, and eventually employed as many as 400 workers, according to former employees and court records. One of its web sites claimed that it was making thousands of loans each day.

One former employee who worked there at the time swore in a court statement that the business was using addresses on tribal land for “protection.” William James said ^[16] no one was allowed to reveal where the company was actually located and that his boss once said, “They don’t touch us on Indian reservations.”

Borrowers complained to state regulators about the loans’ high interest rates and the lenders’ aggressive collection tactics. Regulators in California suffered a major setback when an appeals court ruled ^[17] that because of the tribal affiliation, the lenders had sovereign immunity. With the corporate shell games and the tribes’ involvement, states were finding it difficult to even prove who was doing the lending.

Some companies locate off shore to try to hide from authorities. With scant effort, Tucker was able to hide CLK Management at an office park in suburban Kansas City.

Colorado AG’s seven-year chase

The Colorado attorney general, John Suthers, had been trying to stop Tucker’s lending businesses since 2004. At first, consumers complained about a lender called Cash Advance based in Carson City. But in a surprise move, two Indian tribes—the Miami and Santee Sioux—appeared in court to claim that they were the true owners of the payday lenders. The tribes said the lending business had no connection to Carson City, though there is irrefutable evidence that Tucker set up those shell companies.

By the end of 2007, the investigation in Colorado was continuing to unfold, where complaints about new online payday lenders poured in. Investigators suspected Tucker was behind these new lenders. The Colorado attorney general subpoenaed CLK Management and Tucker.

CLK's lawyer responded with defiance. He argued derisively that Colorado's subpoenas had no power in the state of Kansas.

"I can only conclude in your zeal to pursue CLK you believe there are no limitations on your power," CLK lawyer Thomas Bath wrote back. "We will continue to ignore subpoenas and orders improperly and unlawfully obtained."

The attorney general wasn't giving up. In March 2008, his office asked a Denver judge to cite Tucker for contempt of court. Tucker himself didn't respond in court, but oddly attorneys for the tribes did. This puzzled Denver District Judge Morris Hoffman because the tribes had never mentioned any connection to Tucker or anyone else.

"Are you representing Mr. Tucker?" Hoffman asked tribal attorney Conly Schulte.

"No, your honor," Schulte replied.

"Is Mr. Tucker part of the tribal entities, or connected to them in any way?" the judge asked.

Schulte stumbled a bit for words, arguing that because any questions challenged the tribes' sovereign immunity, "I feel obligated to my client to respectfully decline to answer that."

Hoffman cited Tucker for contempt and two months later ordered a warrant for Tucker's arrest. In the meantime, the tribes finally acknowledged in a court filing, without ever elaborating on the details, that they had a relationship with CLK.

Because Tucker was cited on a civil—not criminal—contempt charge, he can only be arrested if he sets foot in Colorado. Three weeks later, he did just that. Tucker, who by now was starting his racing career, set a track record in a Ferrari 360 at the La Junta Raceway in Colorado.

The state, not paying attention to Tucker's racing schedule, missed its chance to arrest him.

With CLK Management now in Colorado's crosshairs, Tucker would make the situation even more confusing. He filed corporate papers in Kansas claiming that CLK no longer existed, that it had merged with a new company owned by the Indian tribes. The new company was called AMG Services. Tucker said he had no control over the company's books.

Based on Tucker's word alone, a Kansas judge ruled that CLK merged with AMG on June 24, 2008. The target of Colorado's investigation—first Cash Advance, then CLK Management—kept moving.

Partner turns on Tucker

By then, state authorities were not the only ones accusing Tucker of breaking the law. His own business partner, the man who had bankrolled him, accused ^[11] Tucker of being a thief.

Charles Hallinan had put up the cash for Tucker to run the payday lending business. For years, Tucker had called Hallinan each Saturday at his home in Boca Raton, Fla., to give an update on their company called National Money Service.

According to a lawsuit Hallinan later filed in Las Vegas, Tucker acknowledged to Hallinan that he had created a new company in Overland Park called CLK Management and that Indian tribes were involved. But Hallinan said Tucker led him to believe that CLK Management

was just part of their company and that, in truth, they still owned the payday lending business.

By 2006, the weekly calls were replaced by sporadic emails. Hallinan had become suspicious and sent an accountant in May 2008 to look at the books of their company. According to Hallinan's lawsuit, the accountant discovered the company "had essentially been ransacked and substantially all of its assets, cash and profits diverted."

Hallinan accused Tucker of stealing the business by moving everything over to CLK Management. Now, it looked as though Tucker might be moving the business again to a new company, Hallinan alleged.

The lawsuit revealed interesting details about Tucker's relationship with the tribes. Hallinan alleged that Tucker held "significant influence" over the Indian tribes. He released a letter from Tucker that showed that on July 31, 2008, Tucker had completed new "management" and "power of attorney" agreements with the tribes.

What's more, Tucker's letter revealed a proposal, as part of a settlement, to share with Hallinan all money from the tribal accounts after an undisclosed amount was paid to the tribes. The lawsuit was settled.

Two companies working for the Modoc tribe recently revealed what the tribe gets paid from the payday lending business. Answering questions in a class-action lawsuit from borrowers in California, the companies said ^[18] the tribe received between 1 percent and 2 percent of revenues from the loans, even though borrowers pay nearly 800 percent in interest.

But no one from the tribe is even able to sign for several of the tribe's bank accounts used for payday lending. In the same suit, US Bank disclosed ^[19] the only two people able to sign checks on four tribal accounts were Scott Tucker and his brother Blaine Tucker. Scott Tucker identifies himself on the accounts as the "treasurer" of the Modoc tribe's corporation. An attorney for the tribe said recently that Tucker is no longer the company's treasurer.

The Miami and Santee Sioux tribes are still fighting in a separate class-action lawsuit to keep their financial details secret.

Tucker's biggest break came from the Colorado Supreme Court ^[20] last November. The court made it easy for anyone to conspire with an Indian tribe to break state law.

The justices may have had no idea who Scott Tucker was. His name never came up during the hearing. One of the justices asked what the tribes' connection was to Cash Advance of Carson City, Nev., the name and address given on the original loan documents. But the tribes' attorney, Conly Schulte, said the confusion was a case of mistaken identity.

"We submit that there is no connection other than the fact that the Nevada corporations used the same unregistered trade names," Schulte told the justices. "Quite frankly, the name 'Cash Advance' is quite common in this industry."

The attorney for Colorado knew that there was a connection. It was Scott Tucker, who had at first made the loans through a shell company in Carson City to hide his ownership. When that didn't work, he cut a deal with the tribes. The lawyer from the attorney general's office didn't mention Tucker in court because his role wasn't yet identified in the court record.

At the hearing, the justices described their feelings of being hemmed in by federal law. On Nov. 30, the court announced its decision. The court put the burden on the state to prove whether a business claiming to be an arm of a tribe was lying. State attorneys general read the ruling as a major defeat.

In a partial lone dissent, Justice Nathan Coats argued that the decision opens the door for "criminally

unscrupulous predators, especially in the current technological environment,” and makes it “virtually impossible for the state to protect its own citizens against even the most blatant acts of fraud.”

Despite the Colorado Supreme Court ruling, the attorney general there is still trying to shut down Tucker’s operation in his state. And it found new evidence from a lawsuit filed in Las Vegas.

Though Tucker says he has no control over AMG Services, Tucker went to a company that sells leads to online payday lenders in the summer of 2009 and complained that someone was stealing AMG Services’ leads. The owner of the lead company identified [9] Tucker in a lawsuit as the owner and chief officer of AMG Services. In 2008, AMG Services paid the vender \$80 million for its leads.

Colorado is continuing to investigate Tucker. While the tribes can claim sovereign immunity, Tucker himself cannot. Since 2008, the state of Colorado has been trying to enforce a subpoena ordering Tucker to appear in a Denver court.

The biggest obstacle has been a local judge in Kansas. Tucker went to Johnson County District Judge Charles Droege to block Colorado’s subpoena. The judge agreed to do it without even asking the Colorado attorney general for a response.

But when the attorney general showed up in Droege’s court, the judge changed his mind. He would enforce the subpoena, but only after giving Tucker six months to go to Denver and resolve the matter in court there. Tucker chose not to go to the Denver court, which had already cited him for contempt and issued an arrest warrant.

After the six months were up, Tucker’s attorneys continued to plead with Droege that Colorado’s subpoena had no power in Kansas. In a stunning reversal of his earlier reversal, Droege agreed and ruled that the attorney general of Colorado had no jurisdiction to issue a subpoena in Kansas. He ordered Colorado to stop trying to enforce the subpoena or to take any action that would cause any “further annoyance, embarrassment, oppression or undue burden” on Tucker.

The judge also blocked an order by the Denver judge that instructs Tucker to stop making loans in Colorado.

States band together

Colorado appealed the decision. Last month the attorneys general of 22 states, led by Kansas, filed [21] a brief in the Kansas appeals court blasting Droege’s decision. They pointed out that the U.S. Constitution requires states

to honor the laws and court decisions of every other state.

The states argued that unless Droege’s decision is overturned, “Businesses will be able to commit unlawful acts in [other states] with impunity, as long as all condemning evidence is kept elsewhere.” That, the brief said, “renders states incapable of enforcing laws meant to protect their citizens.”

Tucker’s story exposes a myriad of challenges for state regulators and the courts in trying to enforce laws against companies operating over the Internet and hiding behind shell companies.

The simple act of setting up shell companies can delay enforcement actions for months. And merely changing a company’s name can make settlement agreements or court orders moot.

Kansas was the first state to go after Scott Tucker. But Danny Vopat, the lead attorney in the case for the Kansas Bank Commissioner, says he never knew that Tucker, living and working in the same state, was

actually behind the payday lenders he battled for more than two years. Vopat settled ^[22] with one of Tucker's shell companies in Nevada, a shell that no longer exists. Tucker quickly abandoned the trade name Cash Advance. For those reasons, Vopat says it's unclear that Tucker would violate the settlement agreement if he started lending in Kansas again.

Now with the tribal immunity shield, some states say they don't have the resources or legal expertise to fight people like Tucker. Deborah Bortner of the Washington Department of Financial Institutions said she consulted with attorneys about tribal payday lenders, who told her "we really don't have a leg to stand on."

There is hope of federal action. Tribal immunity cannot stop federal regulators, who have the right to investigate and take action against tribes. And in the financial reform act passed last year, Congress gave the new Consumer Financial Protection Bureau the explicit power to regulate payday loans.

Without a confirmed director, the new consumer agency is limited in its powers. Still, the agency is expected to make oversight of payday loans a top priority. Consumer lawyers who've talked to the bureau officials say that the agency is especially concerned about lenders who flout the law, including payday lenders who claim to be affiliated with tribes.

The bureau can't enforce state laws. But it can subpoena tribal records and then share those documents with state regulators.

Yet industry analysts say that Indian tribes are now clamoring to get involved in payday lending. Frank Cotton, an industry analyst in Atlanta, estimates at least 30 tribes are affiliated with payday lending. He said the number may even be as high as 60.

Meanwhile, Tucker has a heavy schedule of racing ahead. He recently made the unusual and costly decision to switch in mid-season to a new custom-built vehicle for the Le Mans series.

His publicity machine continues to promote Tucker as the next superstar of the racing world, recently describing him as "a real-life action figure [who] can be found working his magic at racetracks all over the world."

"With all of his recent success, fans of the three-time champion may have a hard time picturing Tucker in anything other than a driver's suit, but he was a successful businessman long before he was a race car driver," Tucker's publicist said in a press release ^[23] in July. "Give that man a cape."

A joint investigation by iWatch News and CBS News



[2]

Scott Tucker's Level 5 Motorsports racing team. From left, the three drivers are: Christophe Bouchut, Scott Tucker and Joao Barbosa, Level 5 Motorsports/Flickr Kicker:

Superhero or payday king?

Payday lender Scott Tucker stayed one step ahead of the law

Feature in term:

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