



Investigation Report – Interactive gambling

Complaint No. 2011000523

File No.	ACMA2011/339-25
URL	http://www.phoeniciancasino.com/
Domain name	phoeniciancasino.com
Website name	Phoenician Casino
IP address	207.34.202.17
Registrant	Internet Traffic Solutions
Host	TELUS Communications Inc.
Host country	Canada
Date/s of complaint	1 February 2011
Date content was viewed by investigator	29 April and 3 May 2011
Relevant Legislation/Code	<i>Interactive Gambling Act 2001</i> and Internet Industry Association Interactive Gambling Industry Code (December 2001)

Investigation conclusion

That the content assessed in this investigation is hosted outside Australia and is a prohibited Internet gambling service as defined under the *Interactive Gambling Act 2001* (the Act) and must:

- a) be referred to the Australian Federal Police under section 24(1)(a) of the Act; and
- b) be notified to the makers of scheduled filters, in accordance with subclause 24(1)(b) of the Act, and the registered code of practice for Internet service providers.

The complaint

1. On 1 February 2011, the ACMA received a complaint asserting that the content at the URL below provides online gambling services to Australian nationals physically located in Australia.

The website

2. The complainant provided for investigation the URL: www.phoeniciancasino.com which resolved to the URL: <http://www.phoeniciancasino.com>.
3. The content at the URL is an Internet gambling site titled 'Phoenician Casino'. The home page indicates that the site offers a range of online casino games.
4. The content is hosted outside Australia and may be a **prohibited Internet gambling service** as defined under section 6 of the Act.

Assessment

5. On 29 April and 3 May 2011, the investigator accessed the URL: <http://www.phoeniciancasino.com/>.
6. The investigator registered, deposited funds and used the downloaded software to conduct game play including placing bets on a game. This process, including game play took approximately 45 minutes to complete.
7. To assess the content, the investigator accessed the 'Phoenician Casino' website and associated software download – taking screen shots to document the process of registration, depositing of funds and game play (at **Attachment A**).

Issues

8. The issue for this investigation is whether the URL provides individuals physically present in Australia with access to a prohibited Internet gambling service.

Finding

9. The delegate finds that the content on the Internet gambling site 'Phoenician Casino' is hosted outside Australia and is a prohibited Internet gambling service as defined under section 6 of the Act.

Reasons

10. In order to establish whether the URL provided access to a prohibited Internet gambling service, the investigator:
 - Accessed the home page to identify if a possible prohibited Internet gambling service was indicated.
 - Registered on the site to determine if an individual physically present in Australia could participate in the service.
 - Deposited funds to determine if consideration could be provided by an individual physically present in Australia.
 - Conducted game play to determine whether the service was a gambling service and that some valuable benefit could be received.

Item 1 — Home page

11. The 'Phoenician Casino' online home page contained text indicating that a range of casino-style games such as 'roulette', 'black jack' and 'slots' are offered online for users to play. The page also indicated the chance to win progressive jackpots and that the 'Latest Winner' had 'won \$5,000.00'.
12. The investigator determined that a possible prohibited Internet gambling services was indicated by the content on the page. This concluded Item 1.

Item 2 – Registration

13. The investigator selected 'Play Now' from the 'Phoenician Casino' home page, and was prompted to download software 'phoenician.exe' to play the casino games. The investigator downloaded the free software.
14. During the download process, a pop-up window asked the investigator to 'Choose How You Want To Play' either 'Real Money' or 'Practice Play'. The investigator selected 'Real Money' which produced a registration screen.
15. Registration details required included name, date of birth and contact details. The investigator provided an Australian email address [REDACTED] and an Australian geographic address: [REDACTED].
16. After completing the required registration fields, the investigator selected 'Create Account'. This concluded Item 2.

Item 3 – Deposit Funds

17. After selecting the video slot game 'Alaskan Fishing' from the games menu of the 'Phoenician Casino' software and attempting to play the game, a pop-up screen indicated there were 'too few credits for this bet'. The text asked if the investigator would like to purchase credits - the investigator selected 'Yes' and was directed to the 'Bank' screen of the software.
18. The screen provided for a range of payment methods, the investigator selected the first option – to use a credit card to deposit money. The investigator entered the required credit card details – the Australian geographic address entered during registration was automatically populated in the address field for the deposit request. The credit card used to deposit funds was an Australian ANZ Visa card.
19. The investigator selected the minimum deposit of US\$50.00 but opted to pay in Australian dollars (A\$47.17). Text appeared on screen indicating that the deposit of funds was successful. The 'Your Credits (USD)' field at the top right of screen read '50.00'. This concluded Item 3.

Item 4 - Game play

20. The investigator returned to the main screen of the 'Alaskan Fishing' game screen within the 'Phoenician Casino' software which showed the current balance at the bottom left of screen as 5000 'coins'.
21. The investigator maintained the betting settings displayed on the game screen, namely the number of playing 'Coins' at 7 and 'Bet' at 210.
22. The investigator selected 'Spin' from the bottom right of the game screen – the game reels spun indicating game play. The game play did not result in a win and the 'coins' balance displayed at the bottom left of screen dropped to 4790 demonstrating a loss of 210 'coins' for the game play.
23. The investigator changed the gambling values on screen so the value of 'coins' was '10' and therefore the 'Bet' increased to '300'. The investigator selected 'Spin' again, noting that the

balance dropped to 4490 'coins'. The investigator entered the 'Bank' area of the software which indicated that the cash balance remaining in the account could be withdrawn from the site.

Gambling service

24. Information on the 'Phoenician Casino' home page suggests that the site may offer a gambling service within the definition at section 4 of the Act:

gambling service means:

- (a) a service for the placing, making, receiving or acceptance of bets; or
- (b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets; or
- (c) a service for the conduct of a lottery; or
- (d) a service for the supply of lottery tickets; or
- (e) a service for the conduct of a game, where:
 - (i) the game is played for money or anything else of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
- (f) a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs.

25. The service, as assessed, is determined to be for the conduct of a game, meeting the elements that:

- The game was played for money, as the home page of the 'Phoenician Casino' website gave a range of progressive jackpots, indicating monetary amounts. Further, the 'Latest Winner' displayed across the top of the screen indicating a monetary win. During registration, the investigator was prompted to 'Choose How You Want To Play' – having the following options:
 - Real Money** – Experience the thrill and excitement of playing and winning real money. Stand a chance of winning one of our massive progressive jackpots.
 - Practice Play** – Get to know our games for free before playing for real money.
- The game was a game of chance; the matching of symbols on the game reels required no application of skill by the investigator.
- Consideration was given in the form of bets placed by the investigator ranging from US\$2.10 (210 coins) to US\$3.00 (300 coins) per bet - required to participate in the game play.

26. Accordingly, the content provides a gambling service as defined under section 4 of the Act, specifically subsection (e) above - a service for the conduct of a game.

Prohibited Internet gambling service

27. A prohibited Internet gambling service is defined under section 6 of the Act:

prohibited Internet gambling service is a gambling service, where:

- (a) the service is provided in the course of carrying on a business; and
- (b) the service is provided to customers using an Internet carriage service; and
- (c) an individual who is physically present in Australia is capable of becoming a customer of the service.

28. The actions taken during the assessment of the content suggests that the service may be a prohibited Internet gambling service as the 'Phoenician Casino' site:

- Is operated on a commercial basis and is provided in the course of carrying on a business. This is evidenced by the registration and deposit of funds.

- Is provided to customers using the Internet. This is evidenced by the availability of the software for download using the Internet, and the processing of deposits online.
- Allows individuals physically present in Australia to become a customer of the service. This is evidenced by there being no impediment to registering an Australian email and geographic address. Further, there was no impediment to depositing funds from an Australian credit card registered to an Australian address and paying in Australian dollars. The investigator, being physically present in Australia became a customer of the service.

29. Section 6(3) of the Act provides that none of the following services will be a prohibited Internet gambling service:

- (aa) an excluded wagering service (see section 8A);
- (ab) an excluded gaming service (see section 8B);
- (ac) a service that has a designated broadcasting link (see section 8C);
- (ad) a service that has a designated datacasting link (see section 8C);
- (ae) an excluded lottery service (see section 8D);
- (a) a service to the extent to which it relates to the entering into of contracts that are financial products within the meaning of Chapter 7 of the *Corporations Act 2001*;
- (b) an exempt service (see section 10).

30. The service does not appear to fall within any of the above categories of excluded services.

31. Accordingly, the service is a prohibited Internet gambling service as defined under section 6 of the Act.

Recommendations

That the content is hosted outside Australia and is a prohibited Internet gambling service as defined under the Act. Accordingly it is recommended that:

- the content be referred to the Australian Federal Police under section 24(1)(a) of the Act; and
- the content be notified to the makers of scheduled filters, in accordance with subclause 24(1)(b) of the Act, and the registered code of practice for Internet service providers; and
- the complainant be notified of action.


Broadcasting Standards Section
Australian Communications and Media Authority
04 May 2011

Decision

I, [REDACTED] Manager, Broadcasting Standards Section, being the appropriate delegated officer of the Australian Communications and Media Authority, determine for the above reasons that the content provided at, www.phoeniciancasino.com, is a prohibited Internet gambling service as defined under the Act.

I accept that:

- the content be referred to the Australian Federal Police under section 24(1)(a) of the Act; and
- the content be notified to the makers of scheduled filters, in accordance with subclause 24(1)(b) of the Act, and the registered code of practice for Internet service providers; and
- the complainant be notified of action.

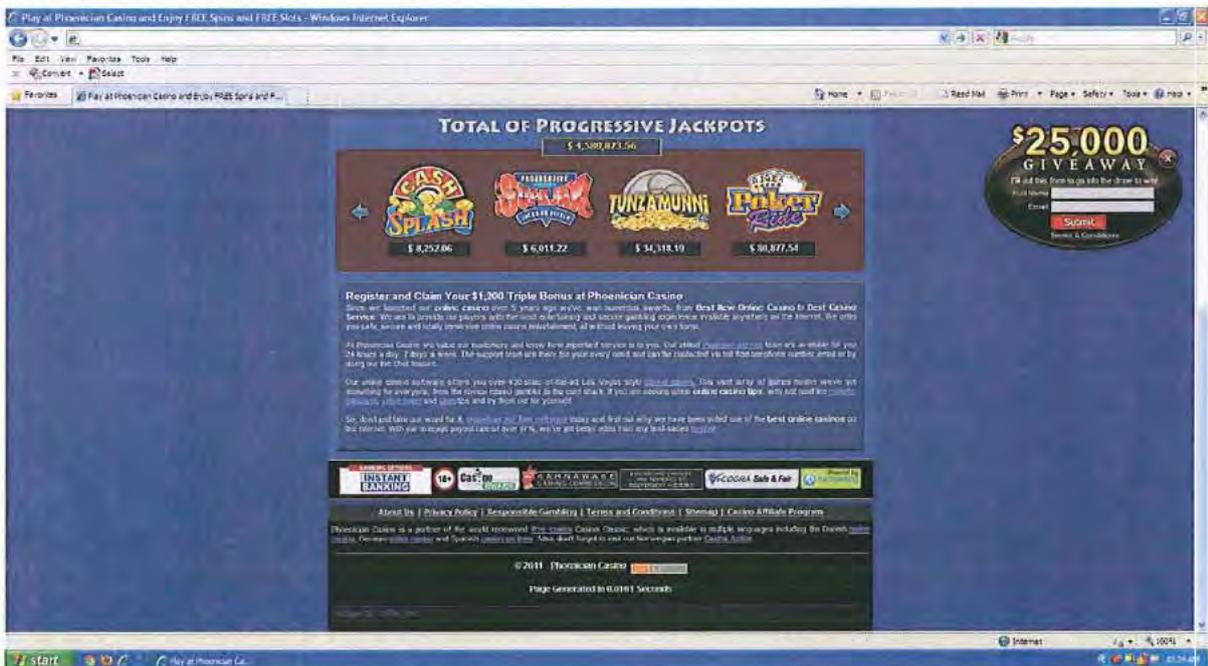
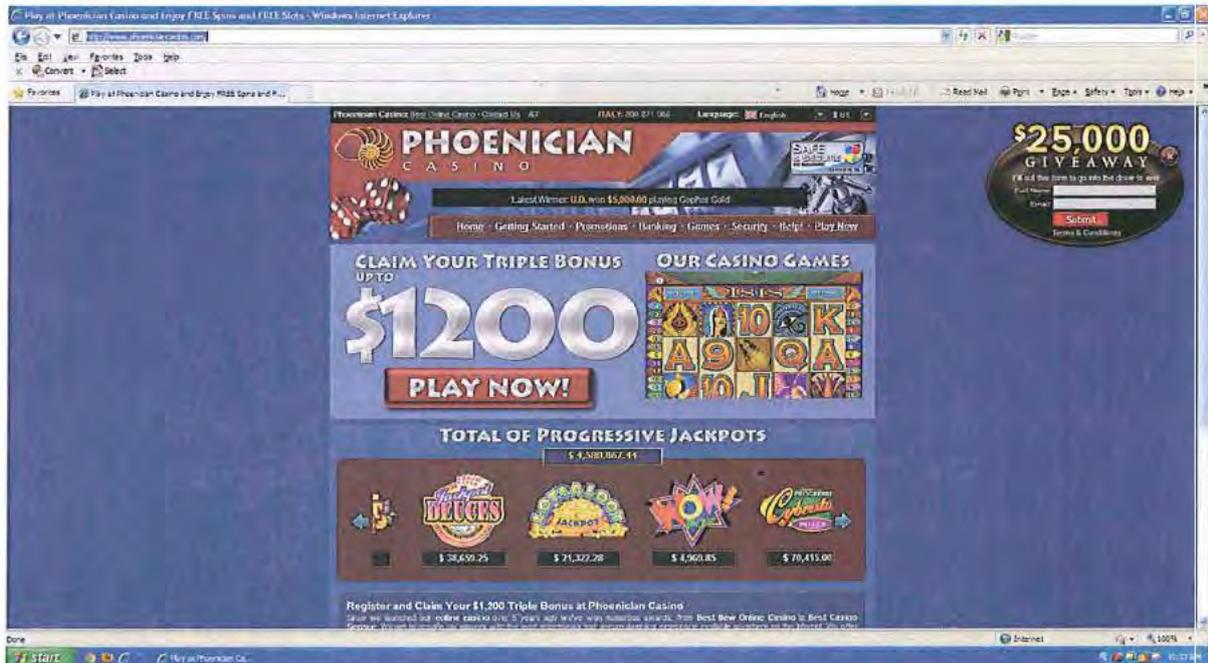
Signed: [REDACTED]

dated this 9 day of May 2011

Items 1 – 4 Home page, registration, depositing funds, game play

Complaint No. 2011000523 – URL www.phoeniciancasino.com which resolved to <http://www.phoeniciancasino.com/> - Viewed 29 April & 3 May 2011

Item 1: Home page (2 screenshots)



This concluded Item 1, homepage.

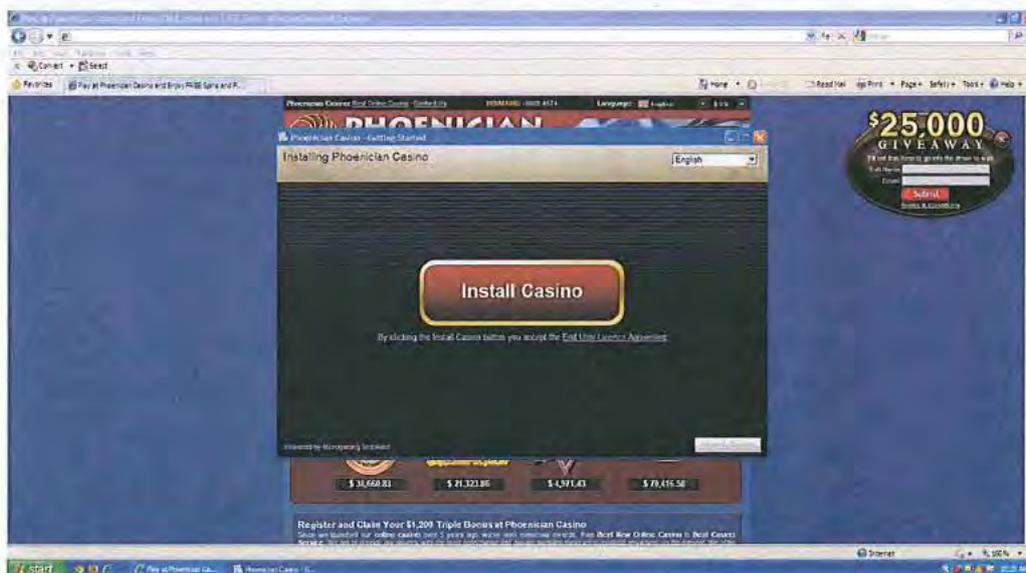
Item 2 – Registration (7 screenshots)

From the home page, the investigator selected 'Play Now'. The following pop-up window appeared, seeking to run software with name 'phoenician.exe'.



Investigator selected 'Run'.

The following pop-up window appeared, requiring Investigator to accept the 'end user licence agreement' by selecting 'Install Casino'.



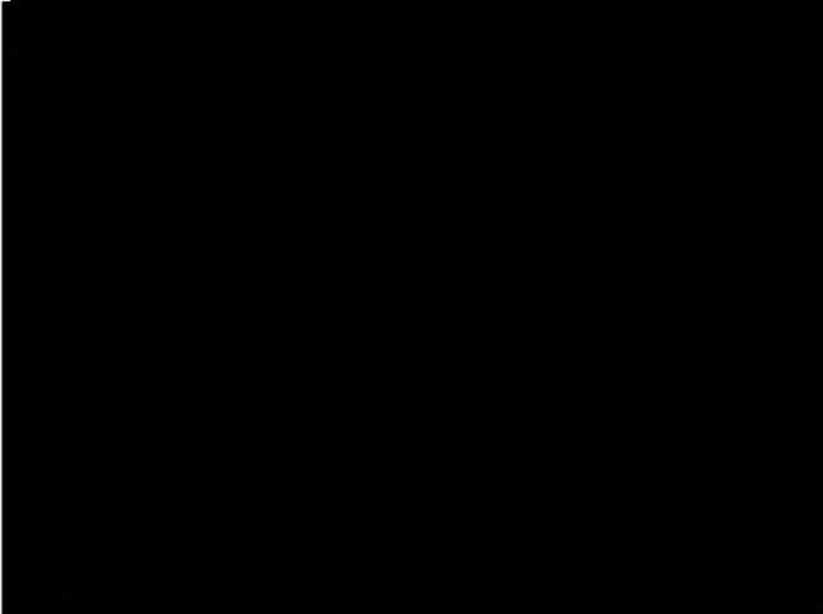
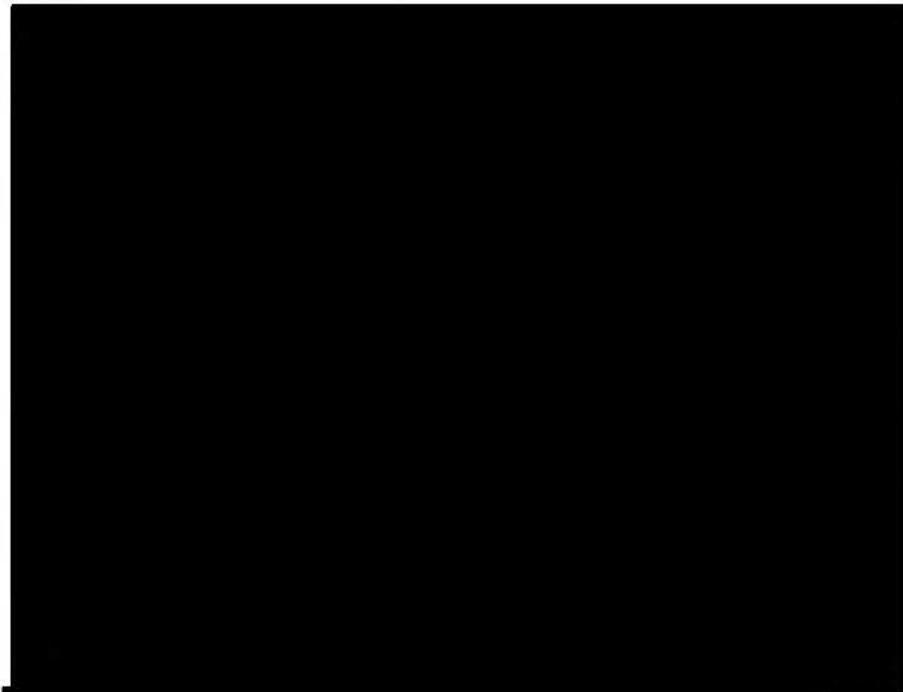
Investigator selected 'Install Casino'.

During the download of the software, the investigator was asked to 'Choose How You Want to Play' – by selecting either 'Real Money' or 'Practice Play'.

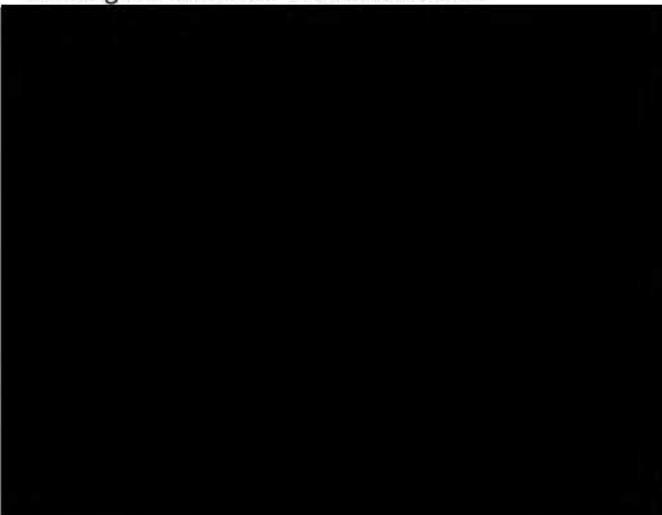


Investigator selected 'Real Money' and was required to create an account by filling in registration details such as name, date of birth and address – the registration details are shown in the screenshots below. Password used: [REDACTED].





Investigator selected 'Create Account'.



This concluded item 2, registration.

Item 3 – Deposit funds (10 screenshots)

From the previous screen, investigator selected 'Continue'



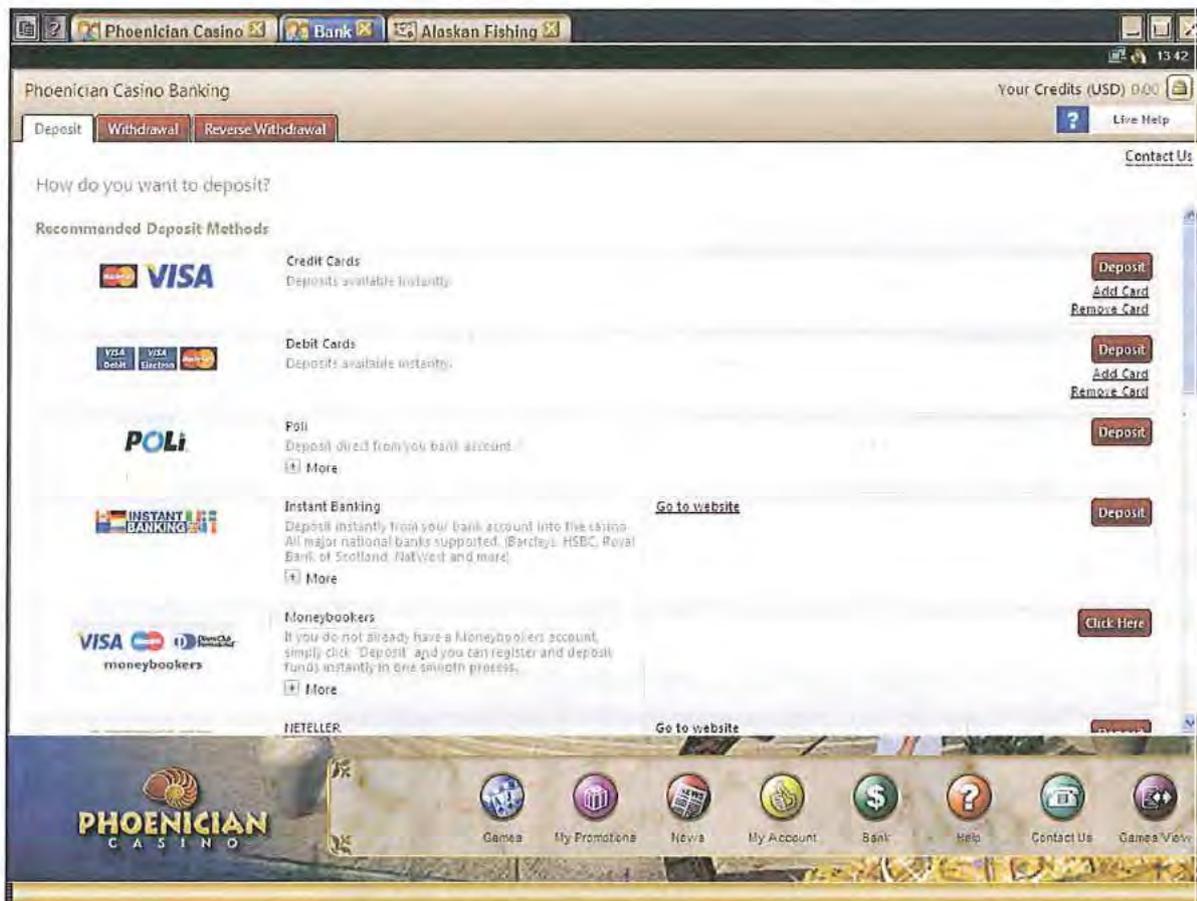
Investigator selected 'OK' – the homepage of the software appeared as a pop-up.



Investigator downloaded game 'Alaskan Fishing' from the software games list (see details at Item 4 – game play) and was prompted to deposit funds by the following pop-up window.

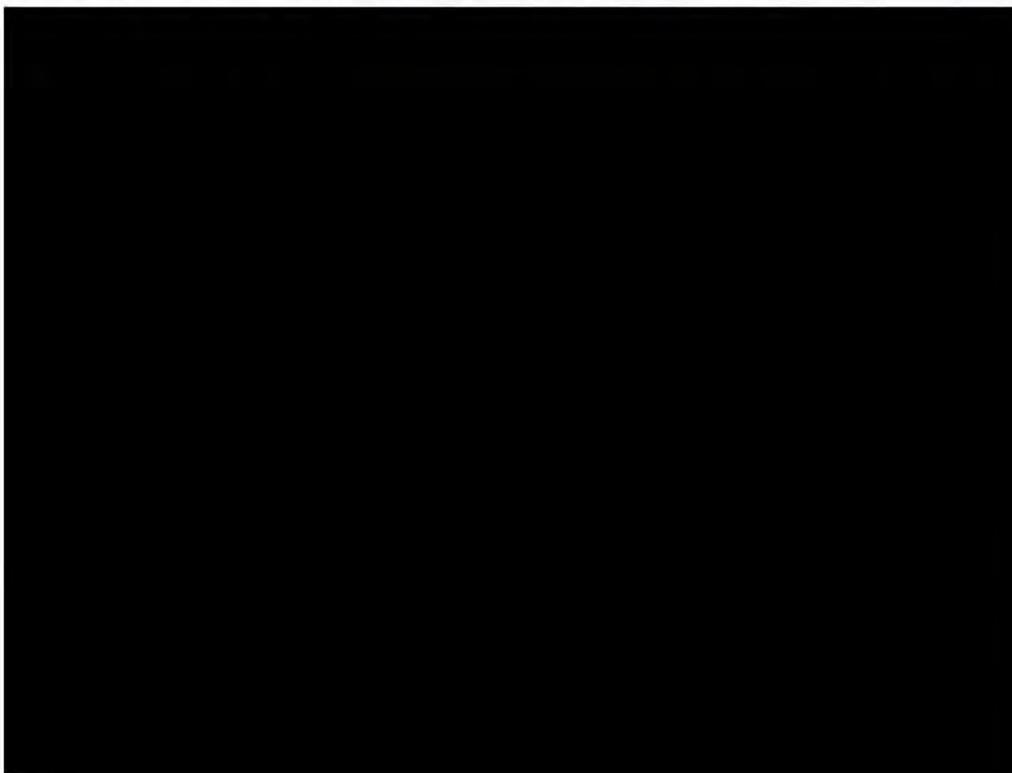


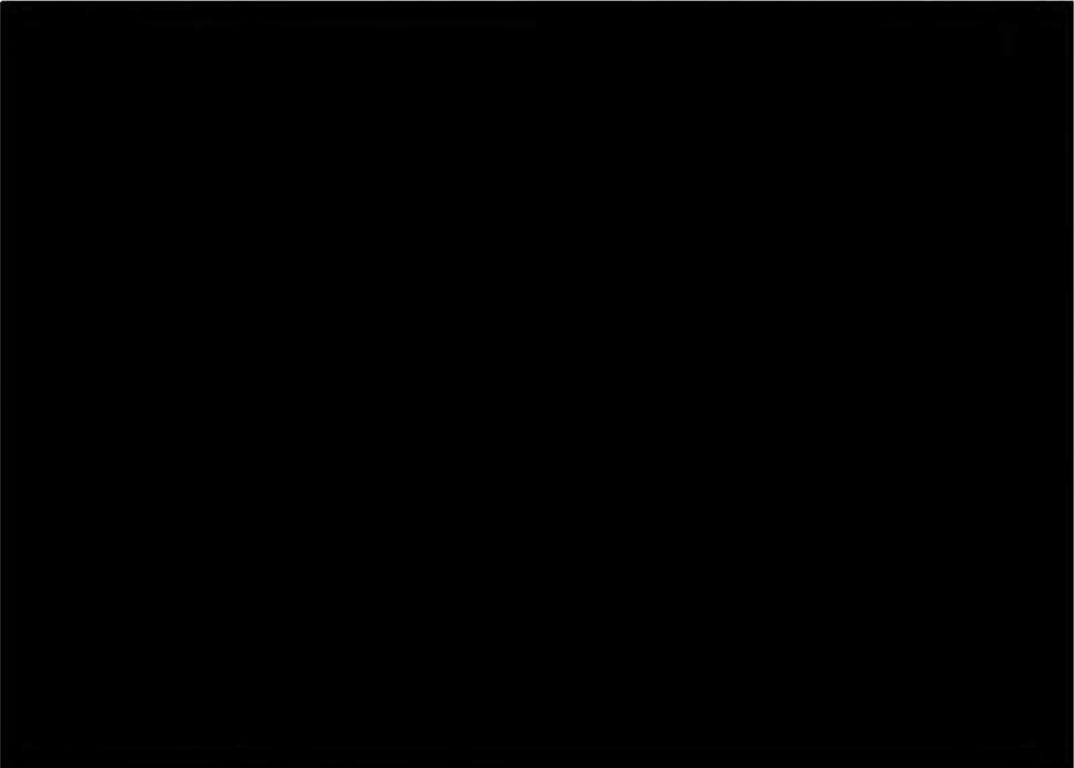
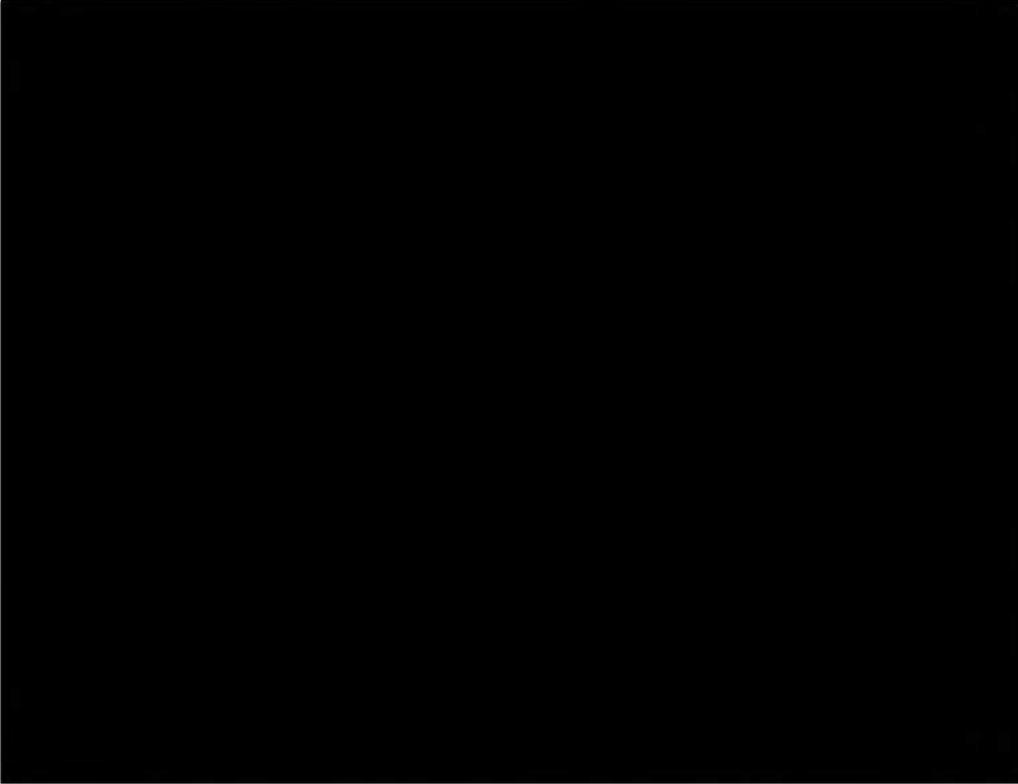
Demonstrated money is required to play this game. Investigator selected 'Yes'.



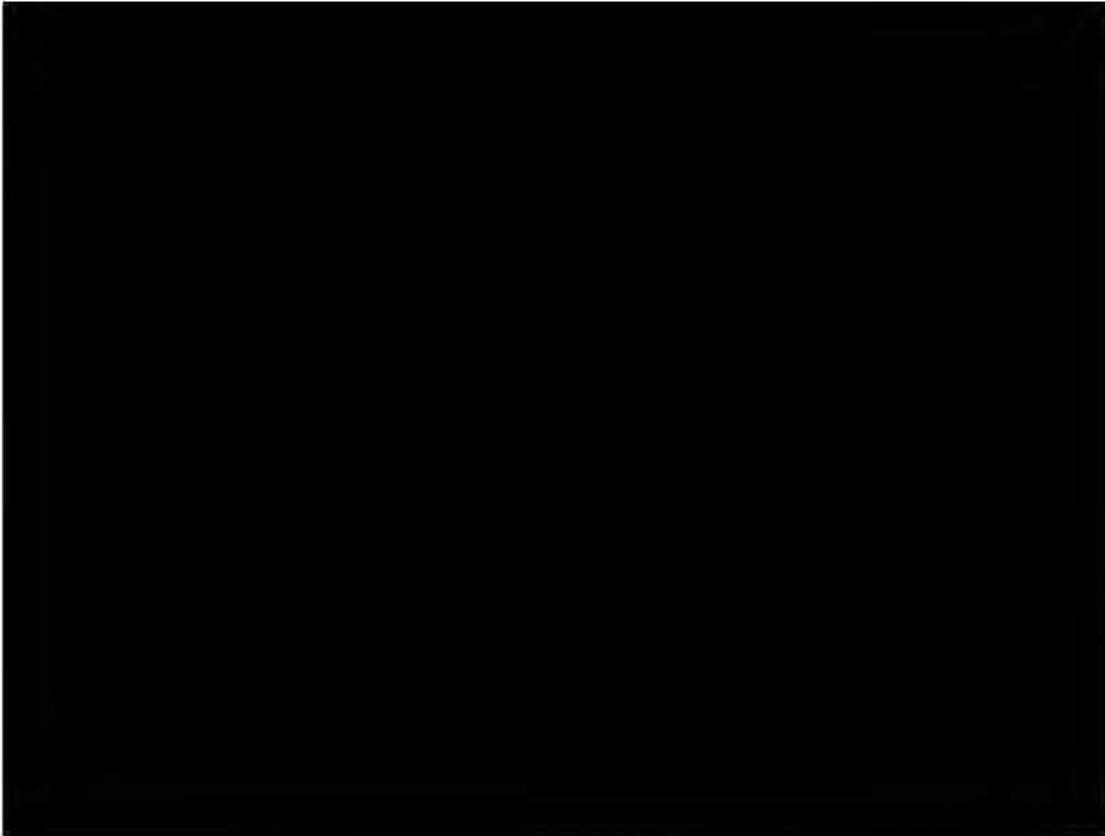
Investigator selected 'Credit Cards' as a deposit method and selected 'Deposit'.

The investigator entered credit card details as shown in the screenshots below. Noting that the address was automatically generated from the registration details.

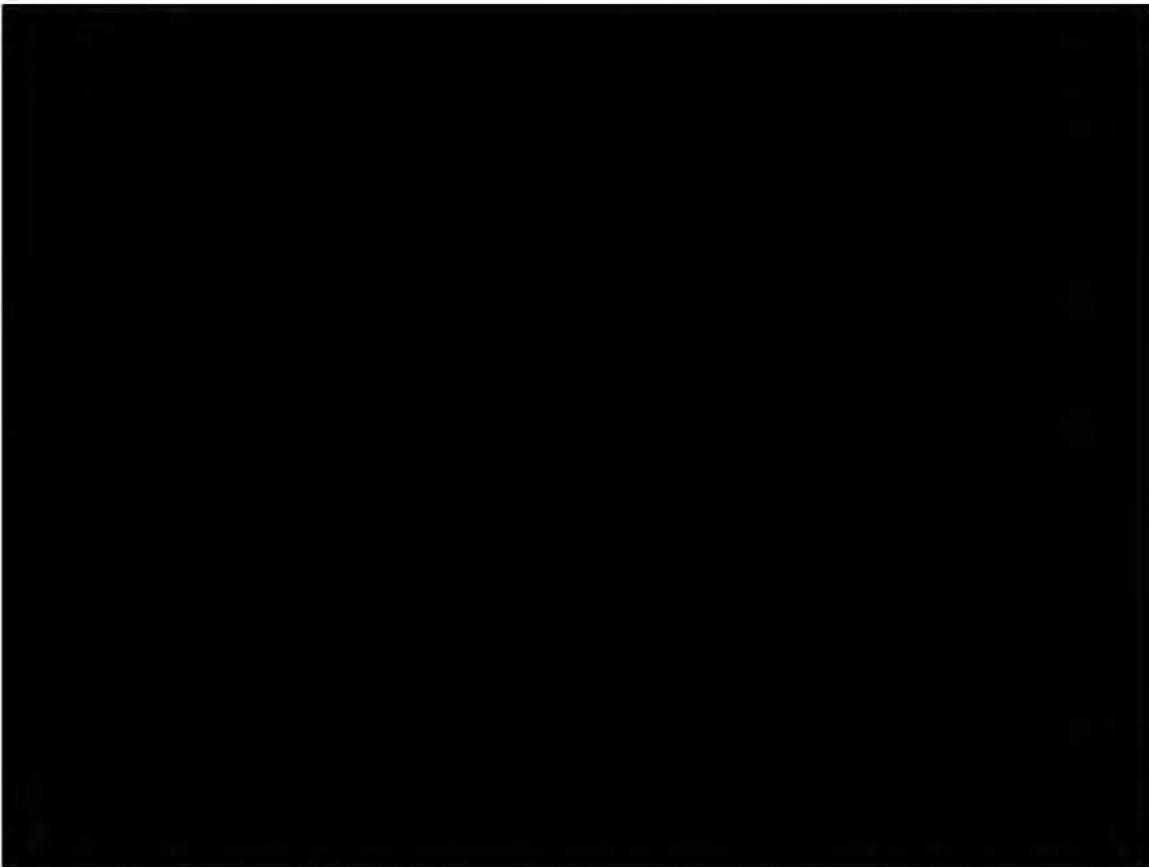




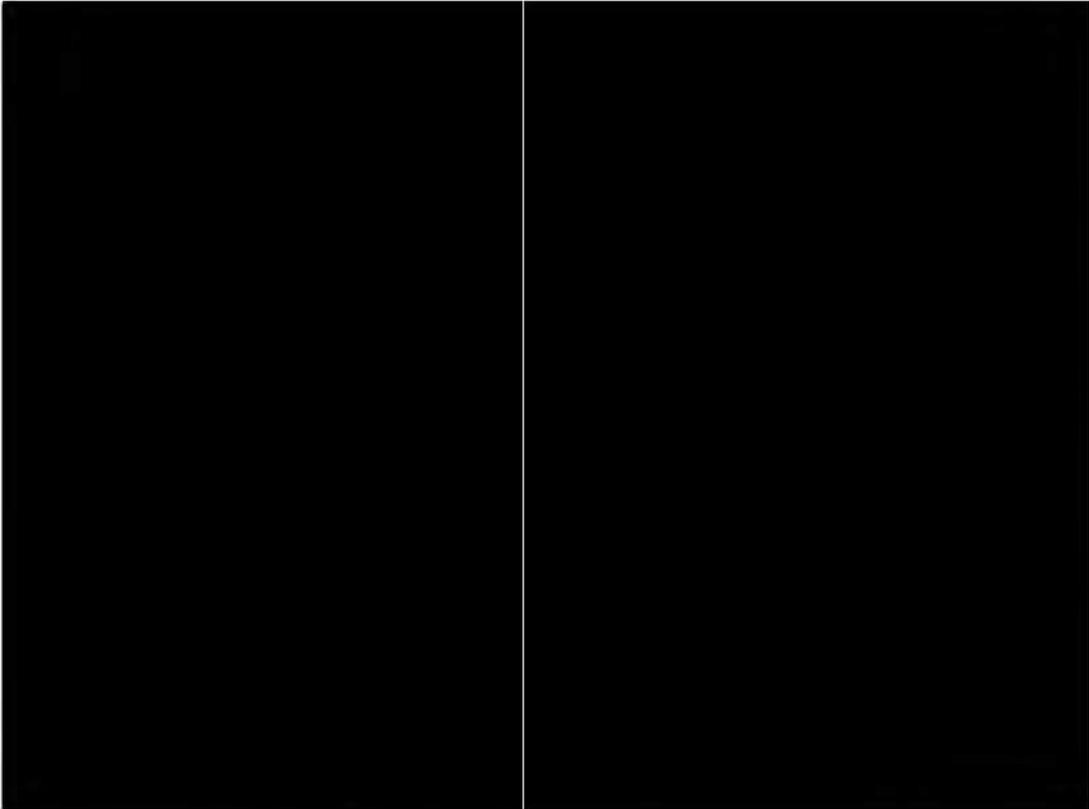
Investigator selected 'Register Card'.



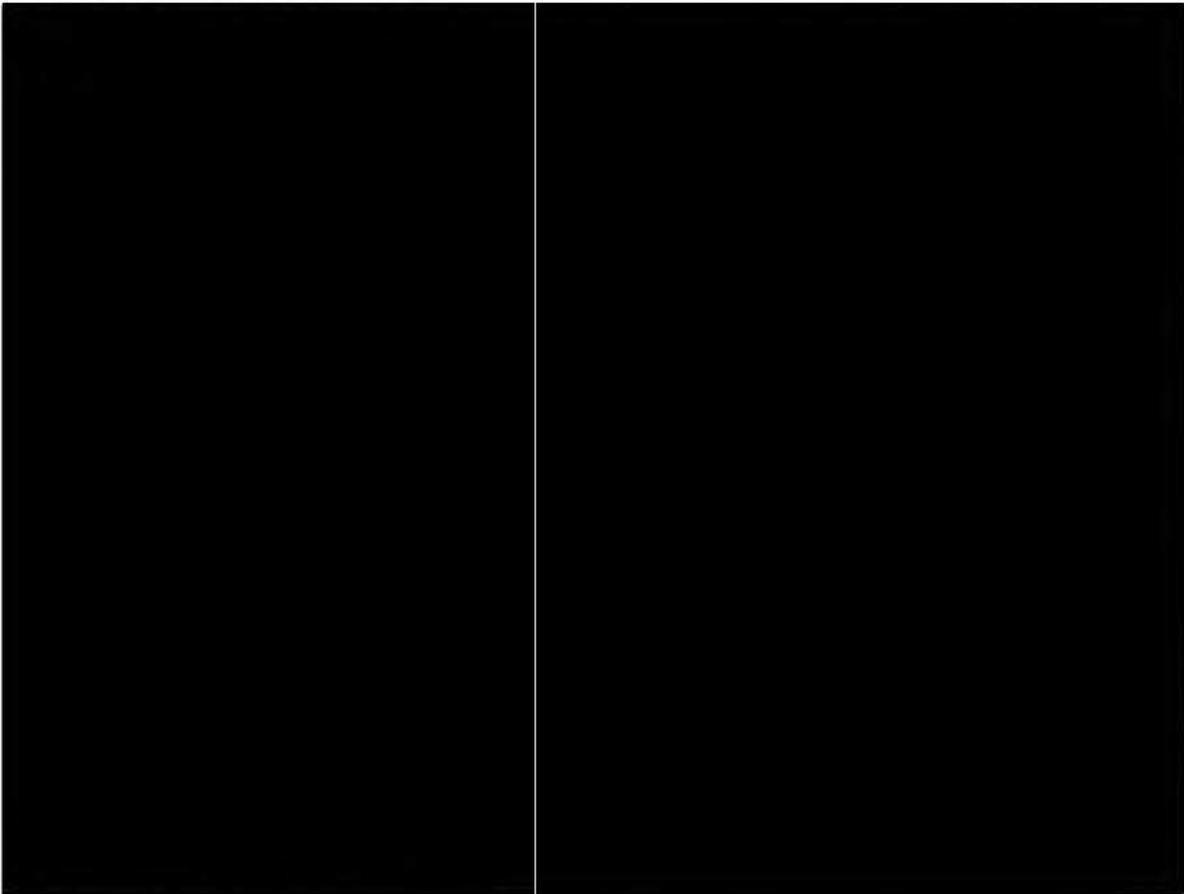
Did not proceed at this time – wanted to seek approval of deposit amount of US\$50.00. Returned at later time:



Investigator entered the minimum deposit amount required of US\$50.00 and selected 'Next'.



Investigator opted to 'Pay in AUD' and selected 'Confirm'. The following window indicated that the deposit of funds was successful.



That concluded Item 3, deposit of funds.

Item 4 – Game play (8 screenshots)

From the bottom of the software homepage, investigator selected 'Games'.



The investigator then selected 'Video Slots' from top row. A list of games appeared on screen.

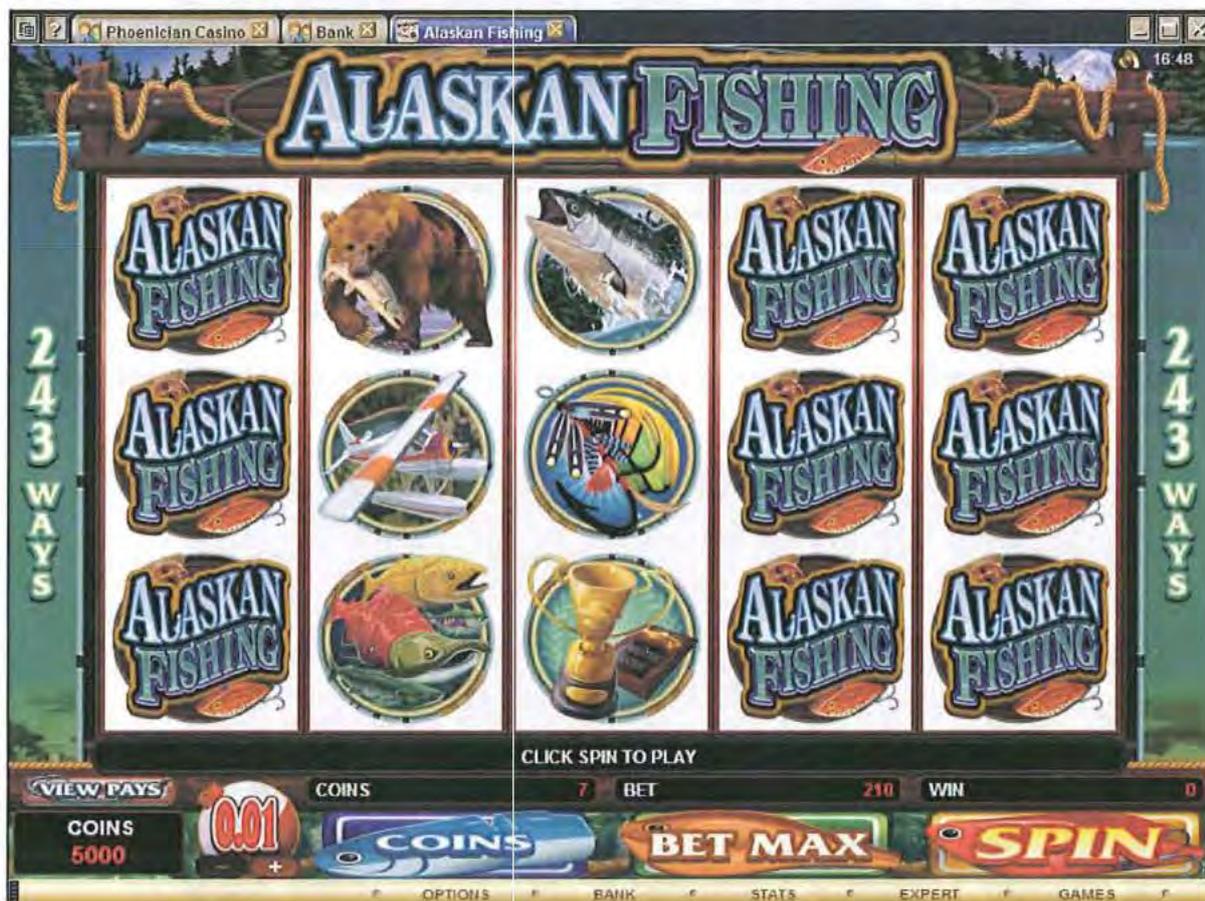


The investigator selected 'Alaskan Fishing' towards the end of the top row of games.

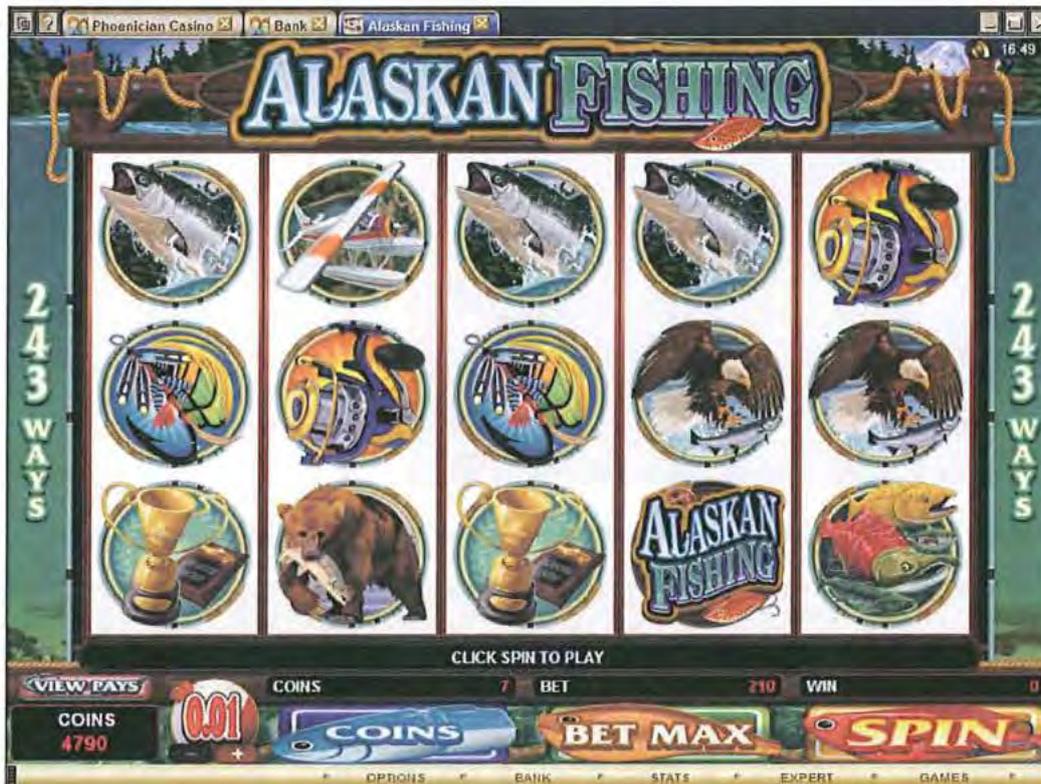
A pop-up window indicated the game was downloading.



The game screen for 'Alaskan Fishing' opened as a new tab in the 'Phoenician Casino' software.

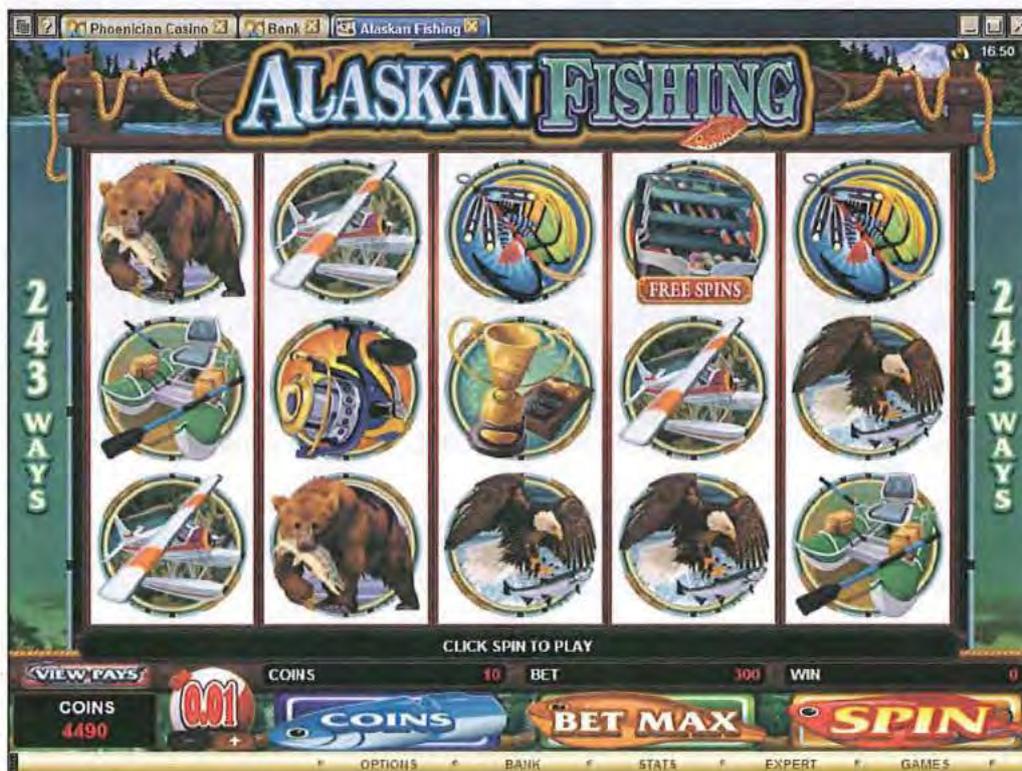


Note that after the deposit of funds the 'Coins' available at the bottom left of the game screen reads '5000'. The investigator maintained the betting options displayed on screen, namely 'Coins' at 7, 'Bet' at 210. Investigator selected 'Spin' from the bottom right of the game screen.



The investigator observed the game reels spin. At the end of the game, the coin balance had decreased by 210 down to 4790 coins and no win was recorded from the spin.

The investigator increased 'Coins' value to 10 and accordingly the 'Bet' increased to 300. Investigator selected 'Spin'.



The investigator observed the game reels spin. At the end of the game, the coin balance had decreased by 300 down to 4490 coins and no win was recorded from the spin.

After a number of 'spins' a win of 30 was recorded on the screen and the Investigator checked that the winning was available as withdrawal of a cash balance – by going to 'Bank' tab.



This concluded Item 4, game play.

