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Scott Tucker used stealth to become a millionaire. Now the mysterious businessman from Kansas is spending his fortune to become a famous auto racer.

Though Tucker has not won any premier races outright, his publicity machine already [compares him](#) [3] to NASCAR superstar Jimmie Johnson. It produced a slick [documentary](#) [4] of his team's third-place finish at a Daytona race which played at film festivals and aired on the Discovery Channel. A glowing *Wall Street Journal* profile last year dubbed Tucker as "[Racing's One-in-a-Million Story](#)." [5]

Tucker competes mostly in a special class for wealthy owners, taking turns behind the wheel with hired professional drivers. But he burst through obscurity last year to become – at age 48 – rookie of the year in endurance racing's American Le Mans Series.

Tucker's quest for fame in sports contrasts sharply with his secrecy in business. He describes himself simply as the CEO of [Westfund](#) [6], which is a fledgling private-equity firm with no visible marketing and a [mail drop](#) [7] as a corporate office.

What Tucker doesn't publicize: he is an ex-convict who runs a controversial business that regulators in at least five states have tried to shut down for violating their laws. Hiding behind a labyrinth of shell companies and operating from the ether of the Internet, Tucker's businesses make payday loans over the Web even in states where they are outlawed. He offers quick cash to people desperate enough to borrow money from a faceless Web site, even signing over access to their bank account to total strangers. And he charges nearly 800 percent interest on loans that take months to pay off.

iWatch News found that some of Tucker's tactics are common among businesses operating on the fringes of the law. By setting up a confusing array of shell companies and selling over the Internet, businesses are often able to frustrate state investigators trying to figure out simply who's who.

But Tucker's most innovative tactic has given businesses a new, powerful tool for eluding state authorities. The tactic has survived major court challenges, but the practice is so questionable that even storefront payday lenders – hardly known as paragons of business probity – denounce it as unethical.

Tucker has partnered with a number of small Indian tribes to provide his payday lending business with the cloak of tribal sovereign immunity. Under federal law, tribes are equal to states as sovereign powers. So they are immune from being sued in state court.

Tucker says his payday lending businesses are now owned by the Miami and Modoc tribes of Oklahoma as well as the Santee Sioux of Nebraska. However, *iWatch News* found evidence in court and public records showing that Tucker secretly runs the payday lending business from his offices in Overland Park, Kan.

Lawyers in the Colorado attorney general's office described [8] Tucker's tactics as a "web of deceit." Others refer [9] to it as "rent-a-tribe."

In a written statement [10] Friday, the chief of the Miami tribe, Tom Gamble, said the payday lending business was "100 percent tribally owned and operated." For the first time, he acknowledged Tucker is an employee of the tribe's payday lending business but did not elaborate on his role. The Modoc and Santee Sioux declined to comment.

Tucker himself said [11], "Due to a confidentiality agreement, I am not permitted to discuss the business of my employer."

Tucker has eluded the grasp of several state authorities. Colorado Attorney General John Suthers has been trying to stop Tucker for seven years. He convinced a Denver judge to order [12] Tucker and his company to stop making payday loans in Colorado. He even has a warrant for Tucker's arrest for violating a court order. Yet Tucker is so contemptuous of the warrant that, after it was issued, he bought an \$8 million vacation home in Aspen, Colo., through a limited partnership in his wife's name, and he now flies to Colorado undetected on his private Learjet [13] that retails for \$13 million.

The contrast between Tucker's lifestyle and those of the tribes that claim to own the lucrative business is stark.

Tucker flashes his wealth on the race track. He is reported to have a fleet of 15 race cars, including custom-built prototypes that can cost more than \$500,000. He employs a team that includes accomplished drivers, among them the 1993 Le Mans winner Christophe Bouchut of France. He travels constantly, even shipping his cars overseas for races. In France last June, his team finished tenth in the grueling and legendary 24 Hours of Le Mans.

Meanwhile, the Miami tribe, whose business offices adjoin farm land and rundown properties, cautioned its members last year that it was struggling through tough financial times after losing partial ownership of a casino in a small Oklahoma town. The tribe won't talk about the presumably lucrative payday lending business it claims to have owned since at least 2005. But the chief said in the tribal newsletter [14] last year that hard times were forcing the tribe to consider layoffs and other budget cutting measures.

The Miami and Santee Sioux tribes have tried to obscure their connection to Tucker in court despite an irrefutable paper trail. Despite this effort, the Colorado Supreme Court last November handed the tribes and Tucker's businesses a major victory. The court ruled [15] that businesses claiming to be part of a tribe have sovereign immunity, too. That protection even covers business done off the reservation.

The justices also ruled that the state has to prove a business is not an arm of an Indian tribe before it can take court action or issue subpoenas. That puts authorities in a Catch 22 – having to prove a company is lying without the power to compel the company to answer questions.

Tangled web frustrates states

Some states have given up trying to stop illegal online payday lenders claiming tribal affiliations. Regulators in Washington state and North Carolina concluded that the effort would be too costly and difficult. Yet industry analysts say Indian tribes are now clamoring to get involved

in payday lending. Frank Cotton, an industry analyst in Atlanta, estimates at least 30 tribes and possibly double that number are affiliated with payday lending.

Still, states are banding together against Tucker in one court battle. In 2009, Tucker's lawyers convinced a

local Kansas judge to block Colorado court orders, arguing that Colorado courts have no power in Kansas. But last July, attorneys general from 22 states joined forces^[16] to argue in a Kansas appeals court that unless it reverses this judge's decision, any culprit could violate a state's consumer laws simply by operating out of another state.

Meanwhile, the business of online payday lending is sizzling. In 2010, revenue was up 32 percent, with online payday lenders making \$10.8 billion in loans in the United States, according to Stephens Inc.^[17], an investment firm that tracks the industry. That equates to more than 30 million loans, with Stephens estimating that the loans racked up interest and fees of \$2.7 billion. In contrast, revenues for storefront payday lenders are fizzling.

Tucker's operations are likely only a sliver of that business. While exact figures on how much his operations make are unavailable, one court document revealed that Tucker's business paid \$80 million in 2008 just for sales leads. That suggests he could be making millions of online payday loans a year.

Many of Tucker's borrowers complain about being harassed. Melissa Rush of Vancouver, Wash., tears up about the never-ending phone calls from online payday lenders to her cell phone, her friends and her co-workers.

In January 2009, the former mortgage loan officer borrowed \$300 from US FastCash, one of Tucker's brands. She couldn't keep up with the payments, which totaled \$1,200, and ended up borrowing more to try to pay off existing loans. That only buried her deeper.

Now the calls are constant. In fact, US FastCash called while an *iWatch News* reporter interviewed her. As a reporter listened in, Rush asked 31 times for the company's address. She wanted to write a letter telling them to stop calling her. After repeatedly ignoring her request, the debt collector finally said he didn't have to give her an address.

Rush, who ironically is a debt collector herself, has researched the company but says she can't figure out who's really behind it. She had never heard of Scott Tucker.

The Miami tribe's chief acknowledged that there are complaints from borrowers who don't pay off their loans. But he defended the business, saying that it "provides a vital service to many Americans who would otherwise be without access to short-term financial assistance. For many of our customers, the alternative to an online loan would be, at best, simply to write a bad check, or, at worst, the prospect of bankruptcy and the loss of their home, or worse yet, pressure toward more desperate and unproductive behaviors."

In the past five years, the Better Business Bureau of eastern Oklahoma has received more than 2,000 complaints about payday lenders tied to Tucker and the tribes. The bureau's chief officer, Rick Brinkley, has gone to the tribes' offices to investigate without any success.

"Most people think that loan sharking is illegal," said Brinkley, who is also a Republican state senator in Oklahoma. "The reality is that in this particular case if you can become affiliated with a tribe and be able to avert local and state laws then, in my opinion, apparently loan sharking is legal."

The beginning of the legal fight

An epic legal saga in Colorado began on Nov. 3, 2004, when a woman sent two brief letters^[18] complaining to the attorney general.

Desperate for cash, the woman had found a pair of payday lenders online willing to deposit a total of \$550 directly into her bank account. What she hadn't given much thought to, or didn't understand, was that the

two loans came with an interest rate of nearly 800 percent. In interest alone, the five-month loans would cost the cash-starved woman \$1,575.

The woman, whose name the state won't reveal, said she had discovered that the loans were illegal. They violated Colorado's payday loan laws. On top of that, neither lender – Cash Advance and Preferred Cash Loans – was licensed to make loans in the state.

The two lenders seemed connected, each operating exactly the same way. Even more telling, they shared a common address at a strip mall in Carson City, Nev. But investigators couldn't tell who was behind these lenders.

The Colorado attorney general dashed off letters ^[19], ordering Cash Advance and Preferred Cash Loans to stop making illegal payday loans in the state. Cash Advance ignored the order. Curiously, Preferred Cash Loans sent back a brief, unsigned note ^[20], saying it had forgiven its loan to the woman. But there was no promise to stop lending in Colorado.

The legal wrangling quickly escalated. Still, both Cash Advance and Preferred Cash Loans kept ignoring court orders. By June 2005, the attorney general asked a Colorado judge to cite the lenders for contempt.

At that point, the case took an unexpected twist that left the state of Colorado's top law enforcement official stumped to this day.

On July 20, 2005, out of nowhere, two Indian tribes — the Santee Sioux of Nebraska and the Miami of Oklahoma — swooped into court and proclaimed ^[21] that they were the true owners of Preferred Cash Loans and Cash Advance. The next day, the company based at the mysterious Carson City address said in court documents ^[22] that it had nothing to do with Preferred Cash Loans or Cash Advance.

It seemed almost comical. After all, the woman's contracts ^[23] had the address in big, bold letters: 2533 N. Carson St., Carson City, Nev. Yet the tribes swore ^[24] that they had no offices there.

How could that be? One of the lenders had already forgiven the loan. Besides, the attorney general asked, how did the tribes even know about this petty legal tussle? Why were they getting involved when they faced no legal sanctions themselves? Why would

they defend total strangers?

As absurd as it seemed, the tribes' involvement erected a powerful legal shield: Tribes cannot be sued in state court.

As a result, the case has been bogged down in court for seven years now. The complicated legal issues have also stymied efforts by other states to halt the lending abuses. Amid the confusion, a controversial industry keeps thriving.

At the same time in the neighboring state of Kansas, the bank commissioner had been trying to stop the online payday lender Cash Advance from making illegal loans for more than two years. By 2005, the Colorado and Kansas cases against Cash Advance were on parallel tracks. But paradoxically, Cash Advance was making claims in a Kansas court that contradicted statements it was making in a Colorado court.

In Kansas, Cash Advance decided to settle. But the company officer who signed the settlement papers ^[25] for Cash Advance was from a Carson City company called C.B. Services. Only two months earlier in Colorado, C.B. Services claimed it had no connection to Cash Advance. The discrepancy is irreconcilable.

And while the Miami tribe had already claimed in Colorado that it was the true owner of Cash Advance, the tribe made no such claim in Kansas.

Something wasn't right.

Enter the shell player

James Fontano of Carson City was the answer to the riddle. In Kansas, Fontano swore in an affidavit ^[26] that he was the president of Cash Advance. But in Colorado, Fontano swore in an affidavit ^[27] that he had no connection to Cash Advance.

It would take perplexed attorneys in Colorado another two years to finally confront Fontano face-to-face for a day of closed-doors interrogation.

Fontano revealed that his true trade was being an imposter. For a small fee, Fontano would create a shell company and pose as its chief executive officer. It was a way, Fontano acknowledged, that "clients could conceal themselves from public view." He did this for hundreds of companies.

Setting up shell companies and posing as officers is a legal and thriving business in Nevada, although in 2006 Fontano landed in federal prison after pleading guilty to charges that he and others provided clients with a tax evasion scheme. Today, the IRS claims that Fontano, who now works at a Utah gift shop, still owes it \$3.5 million.

Fontano was not the mastermind behind the payday lenders. In fact, he was only one layer of a multilayered façade.

While Fontano listed himself as the officer of a shell company called C.B. Services, the payday loans were offered on the Internet with trade names such as Cash Advance. In addition, the address in Carson City on the loan documents was only a mail drop.

When asked who really ran the payday lenders, both Fontano ^[28] and the company ^[29] managing the mail drop pointed to the same man: Scott Tucker. All mail was being forwarded to Tucker's business in Overland Park, Kan.

The layers of deception were so thick that Fontano knew nothing about the Indian tribes and very little about Tucker, whom he never recalls meeting. "I did not have a lot of knowledge of what he was doing," Fontano said.

The two affidavits were different for a simple reason. Fontano said attorneys paid by Tucker—though listed in court as representing Fontano—wrote the affidavit in Colorado, where Fontano claimed ignorance of Cash Advance. Fontano said he signed it, assuming it was true.

As for the affidavit in Kansas where Fontano claimed he was president of Cash Advance? Fontano said he never signed it. He called it a forgery.

iWatch News asked a handwriting expert at Applied Forensics to compare the signature to samples of Fontano's signature. Dennis Ryan, a former forensic supervisor for the Nassau County Police in New York, concluded "with a reasonable degree of certainty" that Fontano's signature on the Kansas affidavit was forged.

Ryan also compared the affidavit signature with documents signed by Tucker. Although he couldn't be certain, Ryan said that Tucker "probably" signed the affidavit. Ryan said he had only 11 samples of Tucker's signature, too few comparisons under forensic standards to be certain.

The Kansas affidavit was submitted by the same Kansas City law firm that submitted the one in Colorado. Fontano said ^[28] those attorneys also never told him that he had been subpoenaed and cited for contempt by a Colorado court, which made him upset when he learned the truth.

In June 2006, Tucker's company sent an email to Fontano: "Please forward any and all records for corporations organized by Mr. Scott Tucker."

Fontano said that he complied, not knowing that the Colorado Attorney General had issued subpoenas to obtain those same records and that he might be breaking the law. But a search of Fontano's computer turned up the records, which Fontano gave to the attorney general's office.

For his cooperation, Fontano was off the hook. The state of Colorado turned its attention to Scott Tucker.

Check back Wednesday to read the next part in this series.

A joint investigation of iWatch News and CBS News



[2]

Payday lender turned racecar rookie, Scott Tucker Level 5 Motorsports/Flicker

Kicker:

Superhero or payday king?

Race car driver Scott Tucker hides business behind Indian tribes

Feature in term:

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