

# LAW OFFICES OF SANFORD I. MILLAR

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## Internet Poker Indicted! Who Is Next?

April 16, 2011

Friday, May 15, 2011 an indictment was unsealed against certain "Founders" of the three major (by market share) Internet Poker Sites. The indictment charges 11 individuals with a variety of felonies, including Money Laundering, and Bank Fraud. At least two of the three sites, PokerStars.com and Fulltiltpoker.com have suspended real money play from players in the U.S. Two of the 11 defendants were arrested Friday and 9 are at large. The indictment goes to the heart of the claims that "poker is a game of skill and not a game of chance" and therefore is legal under U.S. law. Some of the defendants have stated that they will defend against the charges. Regardless of the outcome of the criminal case, the indictment may have already served to severely damage the companies whose founders are the defendants and here is why.

First, U.S. real money play is effectively done for the time being in the U.S., pending state or federal legislation which would legalize the activity. Payouts to players have been suspended. This means that players deposits may be trapped until a mechanism is found to release their money. The method may ultimately be complicated by forfeiture actions of the U.S. and actions of the [IRS](#), discussed below.

Second, the affiliate system which may have been viable business for some web entrepreneurs will surely be affected. Affiliates should not expect payouts from the sites, again, because of the actions of the U.S.

Third, sponsored t.v. programs, magazine advertising and tour promotions in the U.S. are likely to be seriously affected. Attendance at major U.S. poker tournaments could decrease dramatically. Fourth, payment processors who are still attempt to process for three sites or other sites at serious risk.

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Fifth, all the affected businesses will likely be forced to lay off personnel to compensate for lost revenues.

Claims by some of the three companies, that business may continue as far as payouts to players may be “puffing” but if attempted could result in further charges being brought. Which in some ways gets us back to the actions of the [IRS](#).

In the event that there is a plea deal by any of “founders” there will most assuredly by a “cooperation” agreement. The U.S. will want each companies player list with deposits, withdrawals and balances by year so that the [IRS](#) can follow-up to see if winning and losses were reported. If the civil fraud penalty applies, that is willful failure to file, willful failure to pay, or then the statute of limitations on assessment is open so some players may be exposed not only for cash balances on hand, but for tax on prior winnings. If the criminal tax evasion statute applies, then not only will some of the players face civil penalties of 75%, plus interest, but also time in custody. If the failure to file [Foreign Bank Account Reports](#) statutes apply, then civil and criminal penalties under the Bank Secrecy Act are possible.

As said above, some of the damage has already been done, but like the Fukushima earthquake, the full assessment is going to take time. But the cost to the specific businesses, both direct and indirect, as well as to third parties is already enormous.

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