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DOJ Alleges FT Players Are Merely General Unsecured Creditors

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The position of the DOJ and by inference the fate of the players' claims to funds seized by the DOJ is clearly revealed in the Motion to Dismiss the claim of Adam Webb in the Civil Forfeiture case. The government unequivocally asserts that that Webb lacks standing to be a claimant as he is only a general unsecured creditor with no identifiable interest in specific funds or specific seized accounts.

The governments states:

“The Claimant here does not allege that he was an authorized signatory for any bank accounts of payment processors or Full Tilt Poker or Absolute Poker. Nor does he allege that he had any contractual relationship with any deposit banks of third party payment processors or the overseas deposit banks of Full Tilt Poker or Absolute Poker in which the funds at issue were possibly held. He fails to allege with any specificity any particular accounts over which he allegedly has an ownership interest. Ultimately, he does little more than allege a general, unsecured debt allegedly owed to him by Full Tilt Poker and Absolute Poker.”

What this means is that the government may very well have decided that it has no reason to accede to plaintive calls of players or demands of potential bidders that seized funds be released. Given differing burdens of proof between the civil forfeiture case against the corporate defendants and the criminal case against individual defendants any decisions in the criminal case motions to determine if Poker on Line is legal or not, may have little impact on the outcome of player claims. The [IRS](#) may have a more cordial view now that the prospect of recovery has been made a bit dimmer and losses more likely to be supportable. What is more, the position of the DOJ in this case, while not necessarily binding, may be of serious value in establishing reasonable cause for some players with account balance of \$10,000 or more who did not file Reports of Foreign Bank Accounts (FBAR's). As general unsecured creditors the players would not have had the ability to sign on the accounts or direct the use of the funds on deposit.

The reasonable cause for not filing FBAR's does not go to failure to include gambling winnings in income, however. So some players may ultimately face civil or criminal penalties (for tax fraud or evasion) even though they may also have lost funds on deposit. Some of these player may need to weight the cost benefit of participating in a yet to be defined player claim process administered by the DOJ or [IRS](#) or just suffering the loss.

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