

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
POKERSTARS, et al.,  
  
Defendants.  
  
ALL RIGHT, TITLE AND INTEREST IN  
THE ASSETS OF POKERSTARS, et al.,  
  
Defendants-In-Rem.

Case No. 1:11 Civ. 02564 (LBS)

**ECF CASE  
Filed Electronically**

**CLAIMANT TELAMONIAN AJAX TRUST'S MEMORANDUM IN SUPPORT OF ITS  
MOTION TO DISMISS COUNTS ONE AND FOUR OF THE VERIFIED FIRST  
AMENDED COMPLAINT**

On November 28, 2011, Claimant Telamonian Ajax Trust ("Telamonian") filed a Verified Claim in this action pursuant to 18 U.S.C. § 983 and Rule G(5)(a) of the Federal Rules of Civil Procedure, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. (Docket Entry #123.) Telamonian's Verified Claim relates to the account and funds (the "Account") identified in Schedule C, paragraph 5 of the Verified First Amended Complaint (the "Complaint").<sup>1</sup>

In support of its Motion to Dismiss Counts One and Four of the Complaint, as alleged against the Account, Telamonian hereby respectfully adopts and incorporates by reference, in its entirety, the Memorandum of Points and Authorities in Support of Defendant and Claimant Howard Lederer's Motion to Dismiss Verified First Amended Complaint (the "Lederer

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<sup>1</sup> "Account numbered CH87 0875 5057 0684 0010 0 held at Pictet & Co Bankers, Switzerland, in the name of Telamonian Ajax Trust, and all funds traceable thereto."

Memorandum”).<sup>2</sup> (Docket Entry #190.) The First and Fourth Claims for Relief, as alleged against the Account, should be dismissed for the reasons set forth in the Lederer Memorandum.

Those reasons include, but are not limited to, the following:

- As to the First Claim for Relief, the Illegal Gambling Business Act (“IGBA”), 18 U.S.C. § 1955, does not apply extraterritorially to FTP, a company based and operated outside of the United States.
- Also as to the First Claim for Relief, that even if IGBA applies to FTP’s conduct, the Complaint fails to sufficiently allege a violation of IGBA, as the Complaint fails to allege any state law that FTP violated and thus fails to allege the necessary elements of an IGBA cause of action, and also fails to allege that FTP is a “gambling business” under IGBA.
- As to the Fourth Claim for Relief, the government’s wire fraud allegations fail to satisfy Rule 9(b) insofar as they pertain to any FTP employee.

Telamonian therefore respectfully requests that its Motion to Dismiss Counts One and Four of the Complaint, as alleged against the Account, be granted.

**DATED:** July 9, 2012

Respectfully submitted,

s/ Benjamin N. Souede

BENJAMIN SOUEDE

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<sup>2</sup> The sole exception to this adoption and incorporation is that, to the extent that any statement in the Lederer Memorandum agrees that any claim in the Verified First Amended Complaint is legally sufficient, Telamonian does not adopt or incorporate such statement.