

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
POKERSTARS, ET AL., )  
)  
Defendants, )  
)  
ALL RIGHTS, TITLE & INTEREST )  
IN THE ASSETS OF )  
POKERSTARS, ETC., )  
)  
Defendants-In-Rem. )

Civil Action No. 1:11-cv-02564-LBS

**ANSWER OF COMMONWEALTH OF KENTUCKY  
TO VERIFIED SECOND AMENDED COMPLAINT FOR FORFEITURE**

Comes the Commonwealth of Kentucky, *ex rel.*, J. Michael Brown, Secretary Justice and Public Safety Cabinet (the “Commonwealth” or “Claimant”), by and through counsel, and for its Answer pursuant to Rule G of the Supplemental Federal Rules of Civil Procedure For Admiralty or Maritime Claims and Asset Forfeiture Actions and other applicable law to the Verified Second Amended Complaint For Forfeiture (“Complaint”), states as follows:

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief may be granted and should be dismissed.

## **SECOND DEFENSE**

Claimant affirmatively pleads that the court lacks subject matter jurisdiction over this matter, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

## **THIRD DEFENSE**

Claimant affirmatively pleads that the court lacks *in rem* jurisdiction over this matter, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

## **FOURTH DEFENSE**

Claimant affirmatively pleads the doctrines of concurrent and prior exclusive jurisdiction and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

## **FIFTH DEFENSE**

Claimant affirmatively pleads that venue is inappropriate in the Southern District of New York, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

## **SIXTH DEFENSE**

Claimant affirmatively pleads the principles of comity and the doctrines of abstention as a bar, in whole or in part, to Plaintiff's Complaint.

## **SEVENTH DEFENSE**

Claimant affirmatively pleads that it has a valid and superior interest in the certain of the seized domain names as a result of the Commonwealth's prior assertion of jurisdiction, its prior *in rem* civil forfeiture action and other enforcement efforts, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

### **EIGHTH DEFENSE**

Claimant affirmatively pleads that it is an innocent owner of certain of the seized domain names, that the property is therefore not subject to federal forfeiture, and is entitled to ownership and possession thereof.

### **NINTH DEFENSE**

Claimant affirmatively pleads that the federal law violations alleged to justify forfeiture are predicated on violations of state law for which the Commonwealth is pursuing remedies, and the federal violations are thus derivative of, and therefore subordinate to, those violations of state law.

### **TENTH DEFENSE**

1. Claimant admits the allegations set forth in Paragraph 1 of the Complaint.
2. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 2 of the Complaint, and therefore denies same.
3. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 3 of the Complaint, and therefore denies same.
4. Claimant admits the allegations set forth in Paragraph 4 of the Complaint.
5. Claimant admits the allegations set forth in Paragraph 5 of the Complaint.
6. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 6 of the Complaint, and therefore denies same.

7. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 7 of the Complaint, and therefore denies same.

8. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 8 of the Complaint, and therefore denies same.

9. Claimant admits the allegations set forth in Paragraph 9 of the Complaint.

10. Claimant admits the allegations set forth in Paragraph 10 of the Complaint.

11. As to the allegations contained in paragraph 11 of the Complaint, the Commonwealth denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein. The Claimant admits the remaining allegations of this paragraph.

12. Claimant admits the allegations set forth in Paragraph 12 of the Complaint.

13. Claimant admits the allegations set forth in Paragraph 13 of the Complaint.

14. Claimant admits the allegations set forth in Paragraph 14 of the Complaint.

15. Claimant admits the allegations set forth in Paragraph 15 of the Complaint.

16. Claimant admits the allegations set forth in Paragraph 16 of the Complaint.

17. Claimant admits the allegations set forth in Paragraph 17 of the Complaint.

18. Claimant admits the allegations set forth in Paragraph 18 of the Complaint.

19. As to the allegations contained in paragraph 19 of the Complaint, Claimant admits that the Government entered into settlement agreements with parties related to Full Tilt Poker and PokerStars, affirmatively states that the settlement agreements speak for themselves, and denies any remaining allegations of the paragraph.

20. As to the allegations contained in paragraph 20 of the Complaint, the Commonwealth admits that the sum of \$36,487,230 was substituted for certain Full Tilt Poker assets in which the Commonwealth has claimed an interest.

21. As to the allegations contained in paragraph 21 of the Complaint, the Commonwealth denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein. The Claimant admits the remaining allegations of this paragraph.

22. As to the allegations contained in paragraph 22 of the Complaint, the Commonwealth denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein. The Claimant admits the remaining allegations of this paragraph.

23. As to the allegations contained in paragraph 23 of the Complaint, the Commonwealth denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein. The Claimant admits the remaining allegations of this paragraph.

24. As to the allegations contained in paragraph 24 of the Complaint, the Commonwealth denies that this Court has jurisdiction of this action in relation to over the domain names and the proceeds thereof by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

25. As to the allegations contained in paragraph 25 of the Complaint, the Commonwealth denies that this Court is the proper venue for this action in relation to the domain names and the proceeds thereof.

26. As to the allegations contained in paragraph 26 of the Complaint, the Commonwealth denies that this Court is the proper venue for this action in relation to the domain names and the proceeds thereof.

27. As to the allegations contained in paragraph 27 of the Complaint, the Commonwealth denies that this Court is the proper venue for this action in relation to the domain names and the proceeds thereof.

28. Claimant admits the allegations set forth in Paragraph 28 of the Complaint.

29. Claimant admits the allegations set forth in Paragraph 29 of the Complaint.

30. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 30 of the Complaint, and therefore denies same.

31. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 31 of the Complaint, and therefore denies same.

32. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 32 of the Complaint, and therefore denies same.

33. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 33 of the Complaint, and therefore denies same.

34. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 34 of the Complaint, and therefore denies same.

35. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 35 of the Complaint, and therefore denies same.

36. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 36 of the Complaint, and therefore denies same.

37. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 37 of the Complaint, and therefore denies same.

38. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 38 of the Complaint, and therefore denies same.

39. Claimant admits the allegations set forth in Paragraph 39 of the Complaint.

40. Claimant admits the allegations set forth in Paragraph 40 of the Complaint.

41. Claimant admits the allegations set forth in paragraph 41 of the Complaint.



42. Claimant admits the allegations set forth in Paragraph 42 of the Complaint.

43. Claimant admits the allegations set forth in Paragraph 43 of the Complaint.

44. Claimant admits the allegations set forth in Paragraph 44 of the Complaint.

45. Claimant admits the allegations set forth in Paragraph 45 of the Complaint.

46. Claimant admits the allegations set forth in Paragraph 46 of the Complaint.

47. Claimant admits the allegations set forth in Paragraph 47 of the Complaint.

48. Claimant admits the allegations set forth in Paragraph 48 of the Complaint.

49. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 49 of the Complaint, and therefore denies same.

50. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 50 of the Complaint, and therefore denies same.

51. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 51 of the Complaint, and therefore denies same.

52. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 52 of the Complaint, and therefore denies same.

53. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 53 of the Complaint, and therefore denies same.

54. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 54 of the Complaint, and therefore denies same.

55. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 55 of the Complaint, and therefore denies same.

56. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 56 of the Complaint, and therefore denies same.

57. As to the allegations contained in paragraph 57, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 57 of the Complaint, but affirmatively states that the Defendants committed the same and/or similar overt and predicate acts in the Commonwealth of

Kentucky, which acts violated the laws of and caused injuries to and within the Commonwealth of Kentucky, for which violations and injuries has pursued multiple civil actions.

58. Claimant admits the allegations set forth in the main paragraph of Paragraph 58 of the Complaint. As to the allegations contained in subparagraphs a, b, and c of the paragraph, the Commonwealth affirmatively states that the each of the subject domain names is a gambling device designed primarily for use in connection with gambling, and by the operation of which a person may become entitled to receive, as the result of the operation of an element of chance, any money or property, as defined in KRS 528.010(4). The Commonwealth admits the allegations contained in subparagraphs d and e. As to the allegations contained in subparagraphs f and g, the Commonwealth admits the allegations but further affirmatively states that pursuant to the policies of ICANN, the registry and the registrars, the account and IP address can be locked against transfer, that the registrant information is often a proxy or otherwise does not reflect the identity of the true registrant or owner.

59. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 59 of the Complaint, and therefore denies same.

60. Claimant admits the allegations set forth in Paragraph 60 of the Complaint.

61. Claimant admits the allegations set forth in Paragraph 61 of the Complaint.

62. Claimant admits the allegations set forth in Paragraph 62 of the Complaint.

63. Claimant admits the allegations set forth in Paragraph 63 of the Complaint.

64. Claimant admits the allegations set forth in Paragraph 64 of the Complaint.

65. Claimant admits the allegations set forth in Paragraph 65 of the Complaint.

66. Claimant admits the allegations set forth in Paragraph 66 of the Complaint.

67. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 67 of the Complaint, and therefore denies same.

68. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 68 of the Complaint, and therefore denies same.

69. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 69 of the Complaint, and therefore denies same.

70. As to the allegations contained in paragraph 70 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that the domain registration should

have reflected the Commonwealth of Kentucky as the registrant for the domain, pursuant to the Order of Seizure served upon the domain's registrar on or about September 18, 2008.

71. Claimant admits the allegations set forth in Paragraph 71 of the Complaint.

72. Claimant admits the allegations set forth in Paragraph 72 of the Complaint.

73. Claimant admits the allegations set forth in Paragraph 73 of the Complaint.

74. Claimant admits the allegations set forth in Paragraph 74 of the Complaint.

75. Claimant admits the allegations set forth in Paragraph 75 of the Complaint.

76. Claimant admits the allegations set forth in Paragraph 76 of the Complaint.

77. Claimant admits the allegations set forth in Paragraph 77 of the Complaint.

78. Claimant admits the allegations set forth in Paragraph 78 of the Complaint.

79. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 79 of the Complaint, and therefore denies same.

80. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 80 of the Complaint, and therefore denies same.

81. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 81 of the Complaint, and therefore denies same.

82. As to the allegations contained in paragraph 82 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that the domain registration should have reflected the Commonwealth of Kentucky as the registrant for the domain, pursuant to the Order of Seizure served upon the domain's registrar on or about September 18, 2008.

83. Claimant admits the allegations set forth in Paragraph 83 of the Complaint.

84. Claimant admits the allegations set forth in Paragraph 84 of the Complaint.

85. Claimant admits the allegations set forth in Paragraph 85 of the Complaint.

86. Claimant admits the allegations set forth in Paragraph 86 of the Complaint.

87. Claimant admits the allegations set forth in Paragraph 87 of the Complaint.

88. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 88 of the Complaint, and therefore denies same.

89. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 89 of the Complaint, and therefore denies same.

90. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 90 of the Complaint, and therefore denies same.

91. As to the allegations contained in paragraph 91 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that the domain registration should have reflected the Commonwealth of Kentucky as the registrant for the domain, pursuant to the Order of Seizure served upon the domain's registrar on or about September 18, 2008.

92. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 92 of the Complaint, and therefore denies same.

93. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 93 of the Complaint, and therefore denies same.

94. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 94 of the Complaint, and therefore denies same.

95. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 95 of the Complaint, and therefore denies same.

96. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 96 of the Complaint, and therefore denies same.

97. As to the allegations contained in paragraph 97 of the Complaint, Claimant affirmatively states that on September 25, 2008 the registrar, GoDaddy.com, submitted the Registrar Certificate to the Commonwealth for filing with the Franklin Circuit Court, explicitly for the purpose of placing the domain under the dominion and control of that Court, where it remained as of the date of seizure by Plaintiff herein.

98. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 98 of the Complaint, and therefore denies same.

99. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 99 of the Complaint.

100. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 100 of the Complaint, and therefore denies same.



101. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 101 of the Complaint, and therefore denies same.

102. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 102 of the Complaint, and therefore denies same.

103. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 103 of the Complaint, and therefore denies same.

104. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 104 of the Complaint, and therefore denies same.

105. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 105 of the Complaint, and therefore denies same.

106. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 106 of the Complaint, and therefore denies same.

107. Claimant admits the allegations set forth in Paragraph 107 of the Complaint.

108. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 108 of the Complaint, and therefore denies same.

109. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 109 of the Complaint, and therefore denies same.

110. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 110 of the Complaint, and therefore denies same.

111. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 111 of the Complaint, and therefore denies same.

112. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 112 of the Complaint, and therefore denies same.

113. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 113 of the Complaint, and therefore denies same.

114. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 114 of the Complaint, and therefore denies same.

115. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 115 of the Complaint, and therefore denies same.

116. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 116 of the Complaint, and therefore denies same.

117. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 117 of the Complaint, and therefore denies same.

118. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 118 of the Complaint, and therefore denies same.

119. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 119 of the Complaint, and therefore denies same.

120. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 120 of the Complaint, and therefore denies same.

121. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 121 of the Complaint, and therefore denies same.

122. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 122 of the Complaint, and therefore denies same.

123. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 123 of the Complaint, and therefore denies same.

124. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 124 of the Complaint, and therefore denies same.

125. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 125 of the Complaint, and therefore denies same.

126. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 126 of the Complaint, and therefore denies same.

127. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 127 of the Complaint, and therefore denies same.

128. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 128 of the Complaint, and therefore denies same.

129. Claimant admits the allegations set forth in Paragraph 129 of the Complaint.

130. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 130 of the Complaint, and therefore denies same.

131. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 131 of the Complaint, and therefore denies same.

132. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 132 of the Complaint, and therefore denies same.

133. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 133 of the Complaint, and therefore denies same.

134. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 134 of the Complaint, and therefore denies same.

135. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 135 of the Complaint, and therefore denies same.

136. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 136 of the Complaint, and therefore denies same.

137. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 137 of the Complaint, and therefore denies same.

138. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 138 of the Complaint, and therefore denies same.

139. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 139 of the Complaint, and therefore denies same.

140. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 140 of the Complaint, and therefore denies same.

141. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 141 of the Complaint, and therefore denies same.

142. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 142 of the Complaint, and therefore denies same.

143. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 143 of the Complaint, and therefore denies same.

144. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 144 of the Complaint, and therefore denies same.

145. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 145 of the Complaint, and therefore denies same.

146. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 146 of the Complaint, and therefore denies same.

147. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 147 of the Complaint, and therefore denies same.

148. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 148 of the Complaint, and therefore denies same.

149. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 149 of the Complaint, and therefore denies same.

150. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 150 of the Complaint, and therefore denies same.

151. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 151 of the Complaint, and therefore denies same.

152. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 152 of the Complaint, and therefore denies same.

153. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 153 of the Complaint, and therefore denies same.

154. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 154 of the Complaint, and therefore denies same.

155. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 155 of the Complaint, and therefore denies same.

156. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 156 of the Complaint, and therefore denies same.



157. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 157 of the Complaint, and therefore denies same.

158. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 158 of the Complaint, and therefore denies same.

159. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 159 of the Complaint, and therefore denies same.

160. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 160 of the Complaint, and therefore denies same.

161. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 161 of the Complaint, and therefore denies same.

162. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 162 of the Complaint, and therefore denies same.

163. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 163 of the Complaint, and therefore denies same.

164. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 164 of the Complaint, and therefore denies same.

165. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 165 of the Complaint, and therefore denies same.

166. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 166 of the Complaint, and therefore denies same.

167. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 167 of the Complaint, and therefore denies same.

168. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 168 of the Complaint, and therefore denies same.

169. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 169 of the Complaint, and therefore denies same.

170. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 170 of the Complaint, and therefore denies same.

171. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 171 of the Complaint, and therefore denies same.

172. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 172 of the Complaint, and therefore denies same.

173. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 173 of the Complaint, and therefore denies same.

174. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 174 of the Complaint, and therefore denies same.

175. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 175 of the Complaint, and therefore denies same.

176. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 176 of the Complaint, and therefore denies same.

177. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 177 of the Complaint, and therefore denies same.

178. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 178 of the Complaint, and therefore denies same.

179. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 179 of the Complaint, and therefore denies same.

180. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 180 of the Complaint, and therefore denies same.

181. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 181 of the Complaint, and therefore denies same.

182. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 182 of the Complaint, and therefore denies same.

183. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 183 of the Complaint, and therefore denies same.

184. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 184 of the Complaint, and therefore denies same.

185. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 185 of the Complaint, and therefore denies same.

186. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 186 of the Complaint, and therefore denies same.

187. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 187 of the Complaint, and therefore denies same.

188. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 188 of the Complaint, and therefore denies same.

189. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 189 of the Complaint, and therefore denies same.

190. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 190 of the Complaint, and therefore denies same.

191. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 191 of the Complaint, and therefore denies same.

192. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 192 of the Complaint, and therefore denies same.

193. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 193 of the Complaint, and therefore denies same.

194. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 194 of the Complaint, and therefore denies same.

195. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 195 of the Complaint, and therefore denies same.

196. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 196 of the Complaint, and therefore denies same.

197. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 197 of the Complaint, and therefore denies same.

198. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 198 of the Complaint, and therefore denies same.

199. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 199 of the Complaint, and therefore denies same.

200. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 200 of the Complaint, and therefore denies same.

201. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 201 of the Complaint, and therefore denies same.

202. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 202 of the Complaint, and therefore denies same.

203. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 203 of the Complaint, and therefore denies same.

204. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 204 of the Complaint, and therefore denies same.

205. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 205 of the Complaint, and therefore denies same.

206. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 206 of the Complaint, and therefore denies same.

207. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 207 of the Complaint, and therefore denies same.

208. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 208 of the Complaint, and therefore denies same.

209. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 209 of the Complaint, and therefore denies same.

210. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 210 of the Complaint, and therefore denies same.

211. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 211 of the Complaint, and therefore denies same.

212. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 212 of the Complaint, and therefore denies same.



213. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 213 of the Complaint, and therefore denies same.

214. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 214 of the Complaint, and therefore denies same.

215. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 215 of the Complaint, and therefore denies same.

216. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 216 of the Complaint, and therefore denies same.

217. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 217 of the Complaint, and therefore denies same.

218. As to the allegations contained in paragraph 218 of the Complaint, the Commonwealth admits that probable cause exists, but denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

219. As to the allegations contained in paragraph 219 of the Complaint, Claimant restates and reincorporates its answers to paragraphs 1 through 218 as if fully set forth herein.

220. As Claimant admits the allegations set forth in Paragraph 220 of the Complaint.

221. Claimant admits the allegations set forth in Paragraph 221 of the Complaint.

222. Claimant admits the allegations set forth in Paragraph 222 of the Complaint.

223. Claimant admits the allegations set forth in Paragraph 223 of the Complaint.

224. As to the allegations contained in paragraph 224 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

225. As to the allegations contained in paragraph 225 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

226. As to the allegations set forth in Paragraph 226 of the Complaint, Claimant restates its answers to paragraphs 1 through 225 of the Complaint as if fully set forth herein.

227. Claimant admits the allegations set forth in Paragraph 227 of the Complaint.

228. Claimant admits the allegations set forth in Paragraph 228 of the Complaint.

229. Claimant admits the allegations set forth in Paragraph 229 of the Complaint.

230. Claimant admits the allegations set forth in Paragraph 230 of the Complaint.

231. Claimant admits the allegations set forth in Paragraph 231 of the Complaint.

232. As to the allegations contained in paragraph 232 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

233. As to the allegations set forth in Paragraph 233 of the Complaint, Claimant restates its answers to paragraphs 1 through 232 of the Complaint as if fully set forth herein.

234. Claimant admits the allegations set forth in Paragraph 234 of the Complaint.

235. Claimant admits the allegations set forth in Paragraph 235 of the Complaint.

236. Claimant admits the allegations set forth in Paragraph 236 of the Complaint.

237. Claimant admits the allegations set forth in Paragraph 237 of the Complaint.

238. Claimant admits the allegations set forth in Paragraph 238 of the Complaint.

239. Claimant admits the allegations set forth in Paragraph 239 of the Complaint.

240. As to the allegations contained in paragraph 240 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

241. As to the allegations set forth in Paragraph 241 of the Complaint, Claimant restates its answers to paragraphs 1 through 240 of the Complaint as if fully set forth herein.

242. Claimant admits the allegations set forth in Paragraph 242 of the Complaint.

243. Claimant admits the allegations set forth in Paragraph 243 of the Complaint.

244. Claimant admits the allegations set forth in Paragraph 244 of the Complaint.

245. Claimant admits the allegations set forth in Paragraph 245 of the Complaint.

246. Claimant admits the allegations set forth in Paragraph 246 of the Complaint.

247. As to the allegations contained in paragraph 247 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

248. As to the allegations set forth in Paragraph 248 of the Complaint, Claimant restates its answers to paragraphs 1 through 247 of the Complaint as if fully set forth herein.

249. Claimant admits the allegations set forth in Paragraph 249 of the Complaint.

250. Claimant admits the allegations set forth in Paragraph 250 of the Complaint.

251. Claimant admits the allegations set forth in Paragraph 251 of the Complaint.

252. As to the allegations contained in paragraph 252 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

253. As to the allegations set forth in Paragraph 253 of the Complaint, Claimant restates its answers to paragraphs 1 through 252 of the Complaint as if fully set forth herein.

254. Claimant admits the allegations set forth in Paragraph 254 of the Complaint.

255. Claimant admits the allegations set forth in Paragraph 255 of the Complaint.

256. Claimant admits the allegations set forth in Paragraph 256 of the Complaint.

257. As to the allegations contained in paragraph 257 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

258. Claimant admits the allegations set forth in Paragraph 258 of the Complaint.

259. Claimant admits the allegations set forth in Paragraph 259 of the Complaint.

260. Claimant admits the allegations set forth in Paragraph 260 of the Complaint.

261. Claimant admits the allegations set forth in Paragraph 261 of the Complaint.

262. As to the allegations contained in paragraph 262 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

263. As to the allegations set forth in Paragraph 263 of the Complaint, Claimant restates its answers to paragraphs 1 through 262 of the Complaint as if fully set forth herein.

264. Claimant admits the allegations set forth in Paragraph 264 of the Complaint.

265. Claimant admits the allegations set forth in Paragraph 265 of the Complaint.

266. Claimant admits the allegations set forth in Paragraph 266 of the Complaint.

267. As to the allegations contained in paragraph 267 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to

forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

268. As to the allegations set forth in Paragraph 268 of the Complaint, Claimant restates its answers to paragraphs 1 through 267 of the Complaint as if fully set forth herein.

269. Claimant admits the allegations set forth in Paragraph 269 of the Complaint.

270. Claimant admits the allegations set forth in Paragraph 270 of the Complaint.

271. Claimant admits the allegations set forth in Paragraph 271 of the Complaint.

272. As to the allegations contained in paragraph 272 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

273. As to the allegations set forth in Paragraph 273 of the Complaint, Claimant restates its answers to paragraphs 1 through 262 of the Complaint as if fully set forth herein.



274. Claimant admits the allegations set forth in Paragraph 274 of the Complaint.

275. Claimant admits the allegations set forth in Paragraph 275 of the Complaint.

276. Claimant admits the allegations set forth in Paragraph 276 of the Complaint.

277. As to the allegations contained in paragraph 277 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

278. As to the allegations set forth in Paragraph 278 of the Complaint, Claimant restates its answers to paragraphs 1 through 277 of the Complaint as if fully set forth herein.

279. Claimant admits the allegations set forth in Paragraph 279 of the Complaint.

280. Claimant admits the allegations set forth in Paragraph 280 of the Complaint.

281. Claimant admits the allegations set forth in Paragraph 281 of the Complaint.

282. As to the allegations contained in paragraph 282 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to

forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

283. As to the allegations set forth in Paragraph 283 of the Complaint, Claimant restates its answers to paragraphs 1 through 282 of the Complaint as if fully set forth herein.

284. Claimant admits the allegations set forth in Paragraph 284 of the Complaint.

285. Claimant admits the allegations set forth in Paragraph 285 of the Complaint.

286. Claimant admits the allegations set forth in Paragraph 286 of the Complaint.

287. As to the allegations contained in paragraph 287 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

288. As to the allegations set forth in Paragraph 288 of the Complaint, Claimant restates its answers to paragraphs 1 through 287 of the Complaint as if fully set forth herein.

289. Claimant admits the allegations set forth in Paragraph 289 of the Complaint.

290. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 290 of the Complaint, and therefore denies same.

291. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 291 of the Complaint, and therefore denies same.

292. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 292 of the Complaint, and therefore denies same.

293. Claimant denies that Plaintiff is entitled to any relief on its claims.

294. Claimant denies each and every allegation set forth in the Complaint which has not been specifically admitted.

### **COUNTERCLAIM**

Comes the Commonwealth of Kentucky, *ex rel.*, J. Michael Brown, Secretary Justice and Public Safety Cabinet (the "Commonwealth"), by and through counsel, and for its Counterclaim against the United States or America, states as follows:

1. By virtue of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the domain names, and its affirmative defenses stated above and incorporated herein by reference, the

Commonwealth of Kentucky has and is entitled to all right, title and interest in the following internet domain names and all proceeds and incomes thereof: pokerstars.com; fulltiltpoker.com; absolutepoker.com; and ultimatebet.com.

2. In support of its claim, the Commonwealth avers that it was at the time of the filing of the Complaint, and still is, the true and bona fide sole owner of the property and entitled to possession, and that no other person is the owner of or entitled to possession of the property. The Commonwealth states that is the owner of the domain names by virtue of its prior seizure of said domain names, in that certain *in rem* civil forfeiture action, styled *Commonwealth of Kentucky, ex rel. J. Michael Brown, Secretary Justice and Public Safety Cabinet v. 141 Internet Domain Names*, 08-CI-1409 (Franklin Circuit Court, Commonwealth of Kentucky) (hereinafter “Kentucky Forfeiture Action:). Copies of the Second Amended Complaint, the Order of Seizure and the Court’s Findings Of Fact And Conclusions Of Law in that action are attached as Exhibits A, B and C to the Claim previously filed herein by the Commonwealth, and are incorporated herein by reference.

3. The Commonwealth seized the domains by reason of its having been victimized, both in its capacity as a sovereign state and in its *parens patriae* capacity with statutory authority on behalf of its citizens, by Defendants’ actions, including those actions as pleaded in the Amended Complaint filed herein by the United States, and as pleaded in the Kentucky Forfeiture Action.

4. On September 30, 2011, the Commonwealth filed herein its Verified Claim And Statement Of Interest Or Right In Property Subject To Forfeiture In Rem [Docket No. 59].

5. Pursuant to 28 U.S.C. § 2465(b), the Commonwealth is entitled to recover its reasonable attorney fees and other litigation costs reasonably incurred in defending this action and asserting its claim.

WHEREFORE, the Commonwealth of Kentucky *ex rel.*, J. Michael Brown, Secretary Justice and Public Safety Cabinet, respectfully requests the following relief:

1. That the domain names be ordered restored and released to the Commonwealth, free and clear of all liens, claims or encumbrances;
2. A trial by jury on all issues so triable;
3. Its costs incurred herein, including its reasonable attorneys' fees; and
4. Any and all such other relief to which the Commonwealth may be entitled.

Respectfully submitted,

/s/ D. Eric Lycan (pro hac vice)  
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*Attorney for Commonwealth of Kentucky ex rel., J. Michael Brown, Secretary Justice and Public Safety Cabinet*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 19, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ D. Eric Lycan  
ATTORNEY FOR CLAIMANT