

TARP Used as Weapon Against Banks

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Feds Follow The Money In PokerStars Payments Case

The United States Attorney's Office for the Southern District of New York has snagged a further \$733,000 from an Arizona - based bank allegedly involved in clearing financial transactions for global poker giant, PokerStars.com.

The forfeiture by Scottsdale's Goldwater Bank, announced by the USAO for New York's Southern District last week, follows directly from the same office's recent receipt of monies from payment processor Allied Wallet, Inc. and further underscores the continuing focus on payments mechanisms in US Department of Justice enforcement activities against online gambling sites.

While the 2006 Unlawful Internet Gambling Enforcement Act (UIGEA) outlawed payments involving illegal online gambling, the DOJ has subsequently tended to lean more heavily on other statutes to pursue gaming payments activities.

Legal observers note that UIGEA applies only in the case of customer deposits sent to the operator and not where funds are returned from the operator to the player. Meanwhile, regulations ascribed to UIGEA also excluded automated clearing house (ACH) transfers and other mechanisms from being covered under the payment- blocking rules. "The importance of this action is that it fills in the gaps left by UIGEA," said Sanford I. Millar, a California based gambling and taxation law expert.

In a statement, the USAO said that Goldwater Bank had been paid by Allied Wallet to process ACH transactions to and from bank accounts held by US customers of PokerStars.com and other gambling websites. It added that the funds in question were, "traceable to property involved in money laundering, to proceeds of an illegal gambling business, and to property used to operate an illegal gambling business."

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Deposit transfers to Goldwater from Allied Wallet, “were designed in part to conceal or disguise the nature, location, source, ownership, and control of the proceeds of the... operation of an illegal gambling business,” the USAO added. Goldwater was one of hundreds of American banking institutions that necessitated federal government support during the recent financial crisis via the government’s Troubled Asset Relief Program, or TARP.

The Arizona bank has now agreed to forfeit the \$733,804 that equated to its profits from processing \$13m worth of online gambling payments for Allied Wallet. As part of the settlement, the Arizona- based bank has also, “agreed to implement anti- money laundering and Bank Secrecy Act controls to safeguard the investment made by US taxpayers in the bank [through the TARP] against future risks,” the Department of Justice said. “Banks, particularly TARP- recipients like Goldwater Bank, should not profit from the fruits of criminal conduct,” added Manhattan US Attorney Preet Bharara.

The Justice Department’s crackdown on Internet gambling payments has been ongoing for some while. Still, legal observers said it might prove significant that the Goldwater case involved an actual bank and not just a third- party processor. Goldwater has not admitted to any guilt, and has only agreed to forfeit what is a relatively minor amount for a banking group. However, other banks might take note of this case and reconsider their own know- your- customer rules regarding online gambling operations, said Millar. “The interesting thing is that the government is now going after the banks; they went after the e- wallet, and now they are going backwards.

“The domestic pressure points are really starting to tighten down,” Millar added. Last week’s statement is the second time in as many months that the Department of Justice has specifically tied PokerStars.com, which is the world’s largest real- money poker site, to a financial entity involved in the support of alleged ‘illegal gambling businesses.’

The two actions came despite PokerStars’ firm assertion to the contrary after legislation to license Internet wagering was approved by a congressional committee in July. The Isle of Man- based online gaming giant insists its activities in the United States are legal, on grounds that underlying federal gambling laws cannot be applied beyond sports- betting activities to include poker games.

PokerStars declined to issue specific comment on the Goldwater case, although a company spokesperson reiterated a previous statement regarding its US payment activities. “PokerStars does not condone efforts by processors to conceal the nature or purpose of funds used to play online poker. PokerStars has taken steps to ensure that processors properly disclose the nature of their business to their relevant financial institutions,” the statement read.

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