

**ROBB EVANS OF
ROBB EVANS & ASSOCIATES LLC
Receiver of I Works, Inc., et al. and
the Assets of Jeremy Johnson**

11450 Sheldon Street
Sun Valley, California 91352-1121
Telephone No.: (818) 768-8100
Facsimile No.: (818) 768-8802

**Federal Trade Commission v. Jeremy Johnson, I Works, Inc., et al.
CASE No. 2:10-CV-02203-MMD-GWF**

**Notice of Motion and Motion for Order Approving Settlement
with United States of America Concerning Funds
Subject to Civil Forfeiture Action and for
Limited Notice Under Local Rule 66-5 if Applicable;
Memorandum of Points and Authorities in Support Thereof;
Declaration of Gary Owen Caris in Support Thereof;**

Filed July 31, 2013

1 RANDOLPH L. HOWARD (Nev. SBN 006688)
rhoward@klnevada.com
2 KOLESAR & LEATHAM, CHTD.
400 South Rampart Boulevard, Suite 400
3 Las Vegas, NV 89145
Telephone: (702) 362-7800
4 Facsimile: (702) 362-9472

5 GARY OWEN CARIS (Cal. SBN 088918)
gcaris@mckennalong.com
6 LESLEY ANNE HAWES (Cal. SBN 117101)
lhawes@mckennalong.com
7 MCKENNA LONG & ALDRIDGE LLP
300 South Grand Avenue, 14th Floor
8 Los Angeles, CA 90071-3124
Telephone: (213) 688-1000
9 Facsimile: (213) 243-6330

10 Attorneys for Receiver
11 **ROBB EVANS OF ROBB EVANS & ASSOCIATES**
12 **LLC**

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 JEREMY JOHNSON, etc., et al.,

20 Defendants.
21
22

Case No. 2:10-CV-02203-MMD-GWF

**NOTICE OF MOTION AND MOTION
FOR ORDER APPROVING
SETTLEMENT WITH UNITED STATES
OF AMERICA CONCERNING FUNDS
SUBJECT TO CIVIL FORFEITURE
ACTION AND FOR LIMITED NOTICE
UNDER LOCAL RULE 66-5 IF
APPLICABLE; MEMORANDUM OF
POINTS AND AUTHORITIES AND
DECLARATION OF GARY OWEN
CARIS IN SUPPORT THEREOF**

23
24 PLEASE TAKE NOTICE that Robb Evans of Robb Evans & Associates LLC

25 (“Receiver”), the Receiver appointed pursuant to the Court’s Preliminary Injunction Order issued
26 February 10, 2011 (“Preliminary Injunction”), hereby moves the Court for an order approving the
27 Receiver’s proposed settlement of claims with the United States of America (“United States”) in
28

1 connection with the civil forfeiture action pending in the United States District Court for the
2 Southern District of New York ("Forfeiture Court") in the case of *United States of America v.*
3 *Pokerstars, et al.*, Case No. 11 Civ. 2564 (KMW) ("Forfeiture Action") reflected in the
4 Stipulation and Order of Settlement in Regard to Robb Evans ("Pokerstars Stipulation"), a true
5 and correct copy of which is attached hereto as Exhibit 1 to the supporting Declaration of Gary
6 Owen Caris.

7 The Pokerstars Stipulation provides for the receivership estate to recover 50% of the funds
8 held in frozen accounts in the name of Triple Seven LP, Triple Seven, Inc., Powder Monkeys,
9 LLC, Mastery Merchant, LLC, and Kombi Capital at various financial institutions, including
10 SunFirst Bank as to which funds are now held by the Federal Deposit Insurance Corporation
11 ("FDIC"). Triple Seven LP, Triple Seven, Inc., Powder Monkeys, LLC, Mastery Merchant, LLC,
12 and Kombi Capital are part of the receivership estate pursuant to the Preliminary Injunction and
13 the Order Granting Motion for Order Clarifying Preliminary Injunction Order and for Further
14 Instructions Regarding Scope of Receivership Defendants under Preliminary Injunction Order
15 and Report of Receiver's Financial Reconstruction and Granting Relief from Local Rule 66-5
16 Pertaining to Notice to Creditors After Hearing ("Clarifying Order") entered March 25, 2013.
17 The aggregate amount to be recovered by the receivership estate is believed to be at least
18 \$6,812,227.82. The Pokerstars Stipulation has been submitted to the Forfeiture Court and
19 approved by that Court, and the Receiver seeks authorization from this Court for the Receiver to
20 proceed with the settlement under the terms of the Pokerstars Stipulation.

21 The Receiver contends that the Pokerstars Stipulation should be approved and the
22 Receiver authorized to implement the Pokerstars Stipulation as it is fair and equitable and in the
23 best interests of the receivership estate in that the Pokerstars Stipulation resolves the Receiver's
24 claims in the Forfeiture Action without the estate incurring the risks, delays and expense that
25 would be associated with litigation of the claims to the funds and provides for the receivership
26 estate to recover a significant recovery of funds for the estate that would otherwise have been
27 potentially forfeited to the government in the Forfeiture Action as proceeds of illegal gambling
28 and other criminal activity. The ultimate disposition of the funds turned over to the receivership

1 estate under the Pokerstars Stipulation is dependent upon the plaintiff Federal Trade Commission
2 ("FTC") prevailing on its claims in this action, and the funds must be distributed to injured
3 consumers and other creditors with claims against the receivership estate. In connection with the
4 approval of the Pokerstars Stipulation, the Receiver seeks Court approval for the Receiver to take
5 all steps necessary or convenient to implement and perform under the Pokerstars Stipulation and
6 to execute all documents provided for the Receiver to execute under the Pokerstars Stipulation.

7 The Receiver further seeks an order deeming notice of this Motion to be sufficient under
8 Local Civil Rules 66-5 and 66-10 based on the service of a notice of the filing of this Motion and
9 the Motion on all parties and service of a notice of the filing of the Motion on all known non-
10 consumer creditors of the estate, and on all known taxing authorities with a potential claim in the
11 receivership estate concurrent with the filing of this Motion with the Court, but not on the tens of
12 thousands of potential consumer creditors.

13 This Motion is made under Local Civil Rules 7-2, 66-5 and 66-10 and is based on this
14 motion, the accompanying Memorandum of Points and Authorities and Declaration of Gary
15 Owen Caris in support of this Motion, the proposed order lodged concurrently herewith, on the
16 separate notice of filing of this Motion, and on the pleadings, records and files of the Court in this
17 receivership proceeding of which the Receiver requests the Court take judicial notice, including
18 without limitation the Preliminary Injunction (Doc. No. 130), the Clarifying Order entered March
19 25, 2013, the Report of Receiver's Financial Reconstruction filed February 3, 2012 (Doc. No.
20 464) which is supported by a four-volume Appendix of Exhibits (Doc. Nos. 465-468)

21
22
23
24
25
26
27
28

1 (collectively "Second Report") and on such further oral and documentary evidence and arguments
2 of counsel as may be presented at any hearing on this Motion.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: July 31, 2013

RANDOLPH L. HOWARD
KOLESAR & LEATHAM, CHTD.

MCKENNA LONG & ALDRIDGE LLP
GARY OWEN CARIS
LESLEY ANNE HAWES

By: /s/ Gary Owen Caris
Gary Owen Caris
Attorneys for Receiver
**ROBB EVANS OF ROBB EVANS &
ASSOCIATES LLC**

MEMORANDUM OF POINTS AND AUTHORITIES**I. STATEMENT OF RELEVANT FACTS**

1
2
3 The Receiver's Second Report addresses the results of the Receiver's year-long
4 investigation and forensic accounting analysis of approximately \$51.4 million in funds generated
5 through payment processing by entities beneficially owned and controlled by Jeremy Johnson and
6 the disposition of those funds. The Receiver has also previously reported to the Court that a
7 criminal action was filed by the United States Attorney's Office in the Southern District of New
8 York, *United States of America v. Scheinberg*, Case No. S3 10 Cr. 336 (LAK) ("New York
9 Criminal Action"), arising out of the on-line poker activities of Pokerstars and Full Tilt,
10 companies for which payment processing was provided by Receivership Defendants, including
11 Triple Seven LP/LLC, Powder Monkeys, LLC and Mastery Merchant, LLC. The defendants in
12 the New York Criminal Action included officers of Pokerstars and Full Tilt and also named as a
13 defendant John Campos, a former officer of SunFirst Bank.

14 The United States Attorney's Office for the Southern District of New York filed a
15 concurrent civil forfeiture action in that district, commencing the Forfeiture Action seeking
16 forfeiture of hundreds of millions of dollars in funds and assets of Pokerstars, Full Tilt and other
17 entities, including accounts in the name of Triple Seven LP, Triple Seven, Inc., Powder Monkeys,
18 LLC, Mastery Merchant, LLC, and Kombi Capital ("Receivership Accounts"). The Receivership
19 Accounts along with dozens of other accounts were frozen by the Forfeiture Action pending
20 further resolution of the government's forfeiture claims to those accounts. Under the forfeiture
21 procedures, the Receiver filed a verified claim to the funds in the Receivership Accounts in
22 October 2011 and thereafter an amended verified claim to the Receivership Accounts. The
23 United States has settled its claims in the Forfeiture Action against Full Tilt and Pokerstars, and
24 those entities have disclaimed any and all interest in hundreds of millions of dollars in funds
25 subject to the Forfeiture Action, including but not limited to any funds in the Receivership
26 Accounts. The United States has entered into other settlements resolving claims to funds subject
27 to the Forfeiture Action, including claims asserted by the State of Kentucky and Absolute Poker.
28 All of these settlements have been submitted to the Forfeiture Court and approved by that Court.

1 The Receiver's claim in the Forfeiture Action was subject to a motion to strike by the
2 United States which was contested by the Receiver. The United States withdrew its motion to
3 strike after entry of the Clarifying Order. Both prior to and after entry of the Clarifying Order,
4 the Receiver and the United States had extensive settlement discussions to attempt to resolve the
5 competing claims of the Receiver and the United States to the funds in the Receivership Accounts
6 and the asserted forfeiture rights of the United States. The Receiver and the United States
7 reached agreement to divide the funds in the Receivership Accounts under the terms and
8 conditions set forth in the Pokerstars Stipulation. The Pokerstars Stipulation was presented to the
9 Forfeiture Court for approval, and an order approving the Pokerstars Stipulation was entered by
10 the Forfeiture Court on July 26, 2013.

11 The Pokerstars Stipulation provides that the funds in the Receivership Accounts will be
12 split with the receivership estate receiving 50% of the funds. Most, if not all, of the funds are
13 held in former SunFirst Bank accounts and are now in the possession of the FDIC. The parties
14 anticipate the receivership estate will recover \$6,812,227.82 from the accounts in the possession
15 of the FDIC, and potentially additional funds from other accounts identified in the Pokerstars
16 Stipulation. The Pokerstars Stipulation provides that a condition subsequent to the receivership
17 estate's retention of the funds turned over is that the FTC prevails in this action, and the funds
18 turned over must be used as distributions to redress consumer injury and pay other creditors of the
19 estate. The Pokerstars Stipulation also resolves claims to funds, assets and property in the
20 possession of the Receiver as of the date of entry of the order on the Pokerstars Stipulation. The
21 Pokerstars Stipulation includes a provision protecting the parties if the amount represented to be
22 available to be turned over from the accounts held by the FDIC is \$10,000 or more higher than
23 the actual amount available to be turned over by the FDIC by providing the parties an option to
24 withdraw from the Pokerstars Stipulation if the discrepancy was more than \$10,000 and otherwise
25 providing for the division of the different amount between the United States and the Receiver.
26 However, on July 29, 2013, the FDIC confirmed the amount in the accounts subject to the
27 Pokerstars Stipulation held by the FDIC is the same as that set forth in the settlement.

28

1 **II. THE POKERSTARS STIPULATION PROVIDES A VERY FAVORABLE**
2 **RESULT TO THE ESTATE AND RESOLVES DISPUTED CLAIMS AS TO THE**
3 **RECEIVERSHIP ACCOUNTS WITHOUT THE DELAYS, COSTS OR RISKS OF**
4 **LITIGATION**

5 The Receiver's settlement with the United States provides for an equal division of the
6 funds in the Receivership Accounts. This is an excellent result for the receivership estate taking
7 into account the government's extremely broad forfeiture powers, the allegations raised in the
8 New York Criminal Action and the Forfeiture Action, and the delays, costs and risks in the
9 receivership estate having to litigate its claims to the Receivership Accounts in New York in the
10 Forfeiture Action. *See, e.g.*, 28 U.S.C. section 981(a) (broadly authorizing civil forfeiture of "any
11 property, real or personal, which constitutes or is derived from proceeds traceable to" various
12 violations of law). The result is very favorable for the receivership estate and especially for the
13 injured consumers and other creditors who will be the beneficiaries of these funds, assuming that
14 the FTC prevails on its claims. The funds when turned over will provide a substantial and ready
15 pool of assets to redress consumer harm and creditor losses. The settlement is the product of
16 extended negotiations between the Receiver and the United States spanning many months.

17 **III. THE COMPROMISE UNDER THE POKERSTARS STIPULATION IS FAIR AND**
18 **EQUITABLE AND SHOULD BE APPROVED FORTHWITH**

19 The leading treatise on receivership law states:

20 The only justification for the compromise of claims is that it is done
21 for the best interests of the receivership and the estate under the
22 control and possession of the court.

23 3 *Clark on Receivers* § 655 (3d ed. 1992)

24 The court appointing a receiver must use its discretion in
25 determining whether it is for the best interests of the estate that the
26 receiver be authorized to compromise a claim, and when the
27 appointing court has not abused its discretion in giving instructions
28

1 to the receiver, its orders will not be disturbed or reviewed in the
2 appellate court.

3 3 *Clark on Receivers* § 770 (3d ed. 1992).

4 Under Rule 9019 of the Federal Rules of Bankruptcy Procedure, the court in a bankruptcy
5 case may approve a proposed compromise of controversies after notice and an opportunity for
6 hearing.¹ Ninth Circuit decisions in *In re A & C Properties*, 784 F. 2d 1377 (9th Cir. 1986) and
7 *In re Woodson*, 839 F. 2d 610 (9th Cir. 1988) establish four factors the court must consider in
8 ruling on the approval of compromises in bankruptcy:

9 “(a) The probability of success in the litigation; (b) the difficulties,
10 if any, to be encountered in the matter of collection; (c) the
11 complexity of the litigation involved, and the expense,
12 inconvenience and delay necessarily attending it; (d) the paramount
13 interest of the creditors and a proper deference to their reasonable
14 views in the premises.”

15 *In re A & C Properties*, 784 F. 2d at 1381. *See also In re Woodson*, 839 F. 2d at 620.

16 The foregoing factors have been examined by courts in receiverships in approving
17 settlements, but the court in a federal equity receivership has even broader authority to approve
18 proposed settlements by a receiver and to look to other factors in determining that the settlement
19 should be approved. *See Gordon v. Dadante*, 336 Fed. Appx. 540 (6th Cir. 2009) (settlement by
20 receiver in a federal equity receivership within the receiver’s discretion and should be approved if
21 it is fair); *Securities and Exchange Commission v. Credit Bancorp, Ltd.*, No. 99 Civ. 11395, 2002
22 WL 1792053 at *4-5 (S.D.N.Y. Aug. 2, 2002); *Securities and Exchange Commission v. Princeton*
23 *Economic International, Inc.*, No. 99 Civ. 9667, 2002 WL 206990 at *1 (S.D.N.Y. Feb. 8, 2002).
24 “[R]eivers benefit from the general presumption that district courts favor settlements.” *Sterling*
25 *v. Stewart*, 158 F.3d 1199, 1202 (11th Cir. 1998). The District Court’s determination of the
26 fairness of a settlement by the Receiver is subject to the sound discretion of the Court and will

27
28 ¹ Local Civil Rule 66-10 provides for a receiver to administer a receivership estate in a manner
similar to the administration of estates in Chapter 11 bankruptcy cases.

1 only be overturned based on a clear showing of abuse of discretion. *Gordon v. Dadante*, 336 Fed.
2 Appx. at 545 (holding that district court did not abuse its discretion in approving settlement
3 agreement entered into by a receiver); *Sterling v. Stewart*, 158 F.3d at 1202 (quoting *Bennett v.*
4 *Behring*, 737 F.2d 982, 986 (11th Cir. 1984)); *Securities and Exchange Commission v. Arkansas*
5 *Loan and Thrift Corp.*, 427 F.2d 1171, 1172 (8th Cir. 1970) (court finds no abuse of discretion in
6 trial court's approval of receiver's settlement on fidelity bond claim).

7 The Pokerstars Stipulation is a very favorable resolution of contested claims by the
8 receivership estate that provides the estate with a significant recovery through a prompt multi-
9 million dollar cash payment. The Pokerstars Stipulation avoids the costs, delays and risks of
10 litigation and provides the estate a significant, prompt cash financial recovery taking into account
11 the rights of the United States under its broad forfeiture powers. As a result, the Pokerstars
12 Stipulation clearly is beneficial within the four factors in the *A & C Properties* decision and falls
13 well within the reasonable exercise of discretion by the Receiver to settle under the
14 circumstances. For these reasons, the Pokerstars Stipulation should be approved promptly.

15 **IV. NOTICE OF THIS MOTION SHOULD BE DEEMED SUFFICIENT UNDER THE**
16 **CIRCUMSTANCES**

17 Local Civil Rule 66-5 provides for service of notice of the hearing on various motions by
18 a receiver concerning the administration of the estate. That rule provides for service of the notice
19 of hearing on such motions on all creditors of the receivership estate. Further, Local Rule 66-10
20 provides for a receiver to administer a receivership in a manner similar to a Chapter 11
21 bankruptcy estate, and notice of a motion to approve a compromise in Chapter 11 is generally
22 served on all creditors under Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure.

23 No hearing has been set on this Motion and the provisions of Local Civil Rule 66-5 do not
24 specifically apply. Nevertheless, the Receiver has served a notice of filing of the Motion on the
25 parties and on all known non-consumer creditors of the estate and on known taxing authorities
26 with a potential claim in the receivership estate ("Notice Parties"), to provide them notice and an
27 opportunity to be heard concerning the Motion. This notice is consistent with notice previously
28 approved by the Court in this case.

1 There are believed to be an extremely large number of potential consumer creditors who
2 may have claims against the Receivership Defendants arising out of the business operations of the
3 Receivership Defendants prior to the Receiver's appointment, although the precise number,
4 identity and location of such consumer creditors have not been determined by the Receiver at this
5 time. Given the Receiver's determination that more than \$332.5 million² in sales revenues were
6 generated by I Works and the related and affiliated entities, the number of consumer creditors is
7 likely in the tens of thousands. It is not realistically possible or beneficial to the estate and its
8 creditors for the Receiver to attempt to identify and serve the potential consumer creditors with
9 notice of this and other similar administrative motions, and the expense and burden on the estate
10 of attempting to effectuate such service would drain the estate's resources and cause undue
11 administrative expense.

12 To the extent that Local Rule 66-5 applies to this Motion, the Receiver seeks an order that
13 notice of this Motion is sufficient if notice of the filing of the Motion is given by serving copies
14 of all motion papers on the parties to the action and by serving copies of the notice of filing of the
15 motion on the Notice Parties. The Receiver submits that such service provides sufficient notice
16 and an opportunity for hearing to the interested parties and should be approved as adequate.

17 There is ample authority for approval of the scope and method of notice as set forth above.
18 This Court, as a court of equity supervising the receivership estate, may make appropriate
19 administrative orders governing the receivership, including limitations on and changes in notice
20 and other procedures. *See* F.R.Civ.P. 5(a) and (c) (authorizing the court to modify service
21 procedures when numerous defendants are involved in litigation). In addition, as set out above,
22 pursuant to Local Rule 66-10, a receiver is directed to administer receivership estates "as nearly
23 as may be in accordance with the practice in the administration of estates in Chapter 11
24 bankruptcy cases." Orders limiting notice when the Bankruptcy Code or Rules would otherwise
25 require notice to all creditors are routinely granted in bankruptcy cases to promote the expeditious
26 and economical administration of bankruptcy estates. *See In re First Alliance Mortgage Co.*, 269

27
28 ² This figure does not include tens of millions of dollars in additional revenues addressed by the
Receiver in the Report of Receiver's Financial Reconstruction filed on February 3, 2012.

1 B.R. 428, 442 (C.D. Cal. 2001) (referencing in dicta in the court's recitation of facts the
2 bankruptcy court's order limiting notice issued in that case); 11 U.S.C. section 102(1)(A)
3 (defining the phrase "after notice and a hearing" to mean "after such notice as is appropriate in the
4 particular circumstances, and such opportunity for hearing as is appropriate in the particular
5 circumstances"); 11 U.S.C. section 105(a) and (d) (granting broad equitable powers to the court to
6 issue orders "necessary or appropriate to carry out the provisions" of title 11 including
7 "prescribing such limitations and conditions as the court deems appropriate to ensure the case is
8 handled expeditiously and economically"); and F.R. Bankr. P. 2002(m) (authorizing the court to
9 enter "orders designating the matters in respect to which, the entity to whom, and the form and
10 manner in which notices shall be sent except as otherwise provided by these rules").

11 **V. CONCLUSION**

12 The Receiver respectfully requests that the Pokerstars Stipulation be approved and the
13 relief requested by the Receiver in its Motion be granted.

14 Dated: July 31, 2013

RANDOLPH L. HOWARD
KOLESAR & LEATHAM, CHTD.

MCKENNA LONG & ALDRIDGE LLP
GARY OWEN CARIS
LESLEY ANNE HAWES

19 By: /s/ Gary Owen Caris

20 Gary Owen Caris

21 Attorneys for Receiver
22 **ROBB EVANS OF ROBB EVANS &
ASSOCIATES LLC**

23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF GARY OWEN CARIS

I, Gary Owen Caris, declare:

1. I am an attorney at law duly licensed to practice before all courts of the State of California and I have been admitted to practice *pro hac vice* before the United States District Court for the District of Nevada in the subject litigation. I am a partner in the firm of McKenna Long & Aldridge LLP (“McKenna Firm”) and am one of the attorneys primarily responsible for representing Robb Evans of Robb Evans & Associates LLC, the Receiver in this matter (“Receiver”). I have personal knowledge of the matters set forth in this declaration and if I were called upon to testify in these matters, I could and would competently testify thereto.

2. I am lead counsel for the Receiver in this receivership proceeding concerning the assets of defendant Jeremy Johnson (“Johnson”) and the equity receivership of I Works, Inc. and approximately 60 other corporate entities identified in the Preliminary Injunction Order (“Preliminary Injunction”) issued February 10, 2011 as well as many other unnamed subsidiaries and affiliates and the assets of the individuals and entities addressed in the Court's subsequent Order Granting Motion for Order Clarifying Preliminary Injunction Order and for Further Instructions Regarding Scope of Receivership Defendants under Preliminary Injunction Order and Report of Receiver’s Financial Reconstruction and Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors After Hearing (“Clarifying Order”) entered March 25, 2013. I am one of the attorneys for the Receiver who reviewed and assisted the Receiver in preparing and filing the Receiver’s two reports to the Court, including the Report of Receiver’s Financial Reconstruction filed on February 3, 2012, and who prepared and filed the Receiver’s pleadings concerning the Motion for Order Clarifying Preliminary Injunction Order and for Further Instructions Regarding Scope of Receivership Defendants Under Preliminary Injunction Order and Report of Receiver’s Financial Reconstruction and Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors (Doc. No. 580) (“Motion to Clarify”), granted by the Clarifying Order.

3. In April 2011, as previously reported by the Receiver, the United States Attorney's Office in the Southern District of New York filed a criminal indictment arising out of the conduct

1 of on-line poker by various companies, including Pokerstars and Full Tilt whose officers were
2 named in the criminal indictment. The case, *United States of America v. Scheinberg*, Case No. S3
3 10 Cr. 336 (LAK) ("New York Criminal Action") pending in the United States District Court for
4 the Southern District of New York ("Forfeiture Court"), included as a defendant John Campos, a
5 former officer of SunFirst Bank.

6 4. The United States Attorney's Office for the Southern District of New York filed a
7 concurrent civil forfeiture action in that district, commencing the case of *United States of America*
8 *v. Pokerstars, et al.*, Case No. 11 Civ. 2564 (KMW) ("Forfeiture Action"). The Forfeiture Action
9 seeks forfeiture of hundreds of millions of dollars in funds and assets of Pokerstars, Full Tilt and
10 other entities, including accounts in the name of Triple Seven LP, Triple Seven, Inc., Powder
11 Monkeys, LLC, Mastery Merchant, LLC, and Kombi Capital ("Receivership Accounts"). The
12 McKenna Firm, which has a New York office, has represented the Receiver in the Forfeiture
13 Action, and I have been admitted *pro hac vice* in that action.

14 5. The Receiver filed a verified claim to the funds in the Receivership Accounts in
15 October 2011 and thereafter an amended verified claim to the Receivership Accounts. I have
16 been the attorney for the Receiver primarily responsible for reviewing and monitoring the
17 Forfeiture Action and addressing the Receiver's claims in the Forfeiture Action with the United
18 States Attorney's Office in New York.

19 6. The United States has settled its claims in the Forfeiture Action against Full Tilt
20 and Pokerstars, and those entities have disclaimed any and all interest in hundreds of millions of
21 dollars in funds subject to the Forfeiture Action, including but not limited to any funds in the
22 Receivership Accounts. The United States has entered into other settlements resolving claims to
23 funds subject to the Forfeiture Action, including claims asserted by the State of Kentucky and
24 Absolute Poker. All of these settlements have been submitted to the Forfeiture Court and
25 approved by that Court.

26 7. The Receiver's claim in the Forfeiture Action was subject to a motion to strike by
27 the United States which was contested by the Receiver. The United States withdrew its motion to
28 strike after entry of the Clarifying Order. Both prior to and after entry of the Clarifying Order, I

1 have had extensive settlement discussions with the United States Attorney's Office to attempt to
2 resolve the competing claims of the Receiver and the United States to the funds in the
3 Receivership Accounts and the asserted forfeiture rights of the United States.

4 8. Ultimately, the Receiver and the United States reached agreement to divide the
5 funds in the Receivership Accounts under the terms and conditions set forth in the Stipulation and
6 Order of Settlement in Regard to Robb Evans ("Pokerstars Stipulation"), a true and correct copy
7 of which is attached hereto as Exhibit 1. The Pokerstars Stipulation was presented to the
8 Forfeiture Court for approval, and an order approving the Pokerstars Stipulation was entered by
9 the Forfeiture Court on July 26, 2013.

10 9. The United States has extremely broad civil forfeiture rights and asserted that it
11 was entitled to all of the funds in the Receivership Accounts as the product of illegal gambling
12 activity and other illegal conduct. The Pokerstars Stipulation, which provides for the receivership
13 estate to recover 50% of the funds in the Receivership Account under the terms and conditions of
14 the Pokerstars Stipulation, is very favorable to the receivership estate, bringing into the estate at
15 least \$6,812,227.82 in funds that will be set aside and used for consumer redress and payment of
16 other creditor claims, subject only to the condition precedent that the FTC prevail in its action.
17 On July 29, 2013, the FDIC confirmed to me in writing by e-mail that the amount in the accounts
18 subject to the Pokerstars Stipulation held by the FDIC is the same as that set forth in the
19 settlement. The Pokerstars Stipulation avoids what would otherwise be costly and uncertain
20 litigation, as well as the delays inherent in that litigation before recovery of the funds could be
21 realized. The Pokerstars Stipulation is a fair and equitable resolution of the Receiver's contested
22 claims in the Receivership Accounts and very beneficial to the estate.

23 I declare under penalty of perjury that the foregoing is true and correct and that this
24 declaration was executed this 31st day of July 2013 at Los Angeles, California.

25
26 /s/ Gary Owen Caris
27 GARY OWEN CARIS
28

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/26/13

**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.)

**STIPULATION AND ORDER
OF SETTLEMENT IN REGARD
TO ROBB EVANS**

11 Civ. 2564 (KMW)

WHEREAS, on or about April 14, 2011, a verified complaint, 11 Civ. 2564 (LBS) (the "Complaint") was filed under seal in the United States District Court for the Southern District of New York seeking the forfeiture of certain property pursuant to Title 18, United States Code, Sections 1955(d), 981(a)(1)(A), and 981(a)(1)(C) ("Forfeiture Action");

WHEREAS, included in such property were all funds held on deposit in the following accounts:

Account numbered 12900584 held at Sunfirst Bank, St. George, Utah, formerly in the name of Sunfirst Bank ITF Powder Monkeys/Full Tilt, now in the name of Sunfirst Bank, and all funds traceable thereto ("Account 1");

Account numbered 129000576 on deposit at Sunfirst Bank, St. George, Utah, formerly in the name of Sunfirst Bank ITF Mastery Merchant/Pstars, now in the name of Sunfirst Bank, and all funds traceable thereto ("Account 2");

Account numbered 121015408 held at Sunfirst Bank, St. George, Utah, in the name of Triple Seven LP d/b/a Netwebfunds.com, and all funds traceable thereto ("Account 3");

Account numbered 121015390 held at Sunfirst Bank, St. George, Utah, in the name of Triple Seven LP d/b/a A WEB DEBIT, and all funds traceable thereto ("Account 4");

Account numbered 5510045221 held at Wells Fargo, N.A., in the name of Triple Seven L.P., and all funds traceable thereto ("Account 5");

Account numbered CY1211501001065983USDCACC002 held at FBME Bank LTD, Cyprus, in the name of Triple Seven Inc., and all funds traceable thereto ("Account 6");

Account numbered 7478010312 held at Wells Fargo, N.A., in the name of Kombi Capital, and all funds traceable thereto ("Account 7");

Account numbered 27351910081015 held at Societé Generale Cyprus LTD, Cyprus, in the name of Golden Shores Properties Limited, and all funds traceable thereto ("Account 8");

(Accounts 1-8 collectively, the "Defendant Accounts"; the funds in, or traceable to, the Defendant Accounts, "the Defendant Funds"; Accounts 1-4 together, the "Sunfirst Accounts"; Account 5, "the Wells Fargo Triple Seven Account"; Account 6, the "Cyprus Triple Seven Account"; Account 7, the "Wells Fargo Kombi Capital Account"; and Account 8, the "Cyprus Golden Shores Account").

WHEREAS, the Federal Deposit and Insurance Commission (the "FDIC") currently maintains the funds that were held in the Sunfirst Accounts;

WHEREAS, the FDIC has represented that it maintains funds in the aggregate amount of \$13,624,455.64 that were held in the Sunfirst Accounts; with \$8,495,522.22 from Account 1, \$5,112,102.97 from Account 2, \$9,025.26 from Account 3, and \$7,805.19 from Account 4;

WHEREAS, beginning on May 17, 2011, and for thirty consecutive days thereafter, pursuant to Rule G (4) (a) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, plaintiff United States of America posted notice of the Verified

Complaint against the defendants in-rem, on www.forfeiture.gov, the government internet site, and proof of publication was filed with the Clerk of the Court on November 22, 2011;

WHEREAS, on or about October 5, 2011, Robb Evans of Robb Evans and Associates LLC (“Robb Evans” or “Claimant”), a receiver appointed by the United States District Court for the District of Nevada in the action Federal Trade Commission v. Jeremy Johnson, 2:10 Civ. 2203-MMD-GWF (D. Nev. 2010) (the “FTC Action”), filed a verified claim for the Defendant Funds asserting an ownership in said property;

WHEREAS, the Claimant was tasked as receiver in the FTC Action to take possession of, and maintain the assets of, Jeremy Johnson and a number of corporate entities in order to assure that such assets are available for restitution to victims of Johnson’s alleged internet fraud scheme as set forth in the FTC Action;

WHEREAS, included within the scope of the Claimant’s receivership are all assets of Kombi Capital LP, Mastery Merchant, LLC, Powder Monkeys, LLC, Triple Seven LP/LLC, and Triple Seven, Inc. (collectively, the “Receivership Entities”);

WHEREAS, on or about September 21, 2011, a verified amended complaint (the “Amended Complaint”) in the Forfeiture Action was filed seeking the forfeiture of, inter alia, the Defendant Funds;

WHEREAS, on or about September 10, 2012, a verified second amended complaint (the “Second Amended Complaint”) in the Forfeiture Action was filed seeking the forfeiture of, inter alia, the Defendant Funds;

WHEREAS, the Claimant represents that, in his capacity as receiver in the FTC Action, he believes that he will have separately collected funds sufficient to cover costs and fees relating to the Claimant’s work as receiver and that most, if not all, funds collected from the Defendant

Accounts will therefore be utilized to provide restitution for victims of the internet fraud scheme alleged in the FTC Action and payment on allowed creditor claims, in connection with a claims allowance and distribution procedure to be administered by Claimant and/or a distribution procedure to be managed by the FTC;

WHEREAS, the Government and the Claimant have agreed to settle this matter; therefore

IT IS HEREBY STIPULATED, ORDERED AND AGREED, by and between Plaintiff United States of America (the "Government"), by its attorney Preet Bharara, United States Attorney, Assistant United States Attorneys, Sharon Cohen Levin, Michael D. Lockard, Jason H. Cowley, and Christine I. Magdo, of counsel, and the Claimant, by his counsel, McKenna Long & Aldridge LLP by Gary Caris, Esq., that:

1. The FDIC shall immediately transfer funds from the Sunfirst Accounts as follows:
 - (1) \$6,812,227.82 to a seized asset account operated by the United States Marshal Service, and
 - (2) \$6,812,227.82 to the Claimant Robb Evans.
2. Wells Fargo shall immediately transfer to a seized asset account operated by the U.S. Marshals all funds in its possession that are, or were, held on deposit in the Wells Fargo Triple Seven Account or the Wells Fargo Kombi Capital Account.
3. The Government is hereby authorized to seize and take possession of the funds held in the Cyprus Triple Seven Account and the Cyprus Golden Shores Account.
4. Upon receipt of such funds set forth in paragraphs 2 and 3, the Government shall transfer to the Claimant fifty percent of the total assets obtained from the Wells Fargo Triple Seven Account, the Cyprus Triple Seven Account, and the Wells Fargo Kombi Capital Account (together with the funds transferred by the FDIC to the Claimant pursuant to Paragraph 1, the "Claimant Funds").

5. The remaining funds obtained by the Government from the Defendant Accounts (the "Forfeited Funds") shall be forfeited to the United States for disposition according to law, pursuant to Title 18, United States Code, Section 981.

6. Upon a notification filed by the Claimant in the Forfeiture Action that an order has been obtained in the FTC Action which provides that the FTC is the prevailing party such that the Claimant and/or the FTC can undertake distribution to victims of the internet fraud scheme alleged in the FTC Action and to other creditors with allowed claims in the FTC Action, the Claimant shall have clear title to the Claimant Funds. In the event that a final and non-appealable order is issued in the FTC Action which provides that the FTC is not the prevailing party such that the Claimant and/or the FTC cannot undertake distribution to victims and other creditors in the FTC Action, the Claimant shall file a notification of such in the Forfeiture Action, and upon such notification, the Claimant Funds shall be transferred to a seized asset account maintained by the United States Marshall Service and shall be forfeited to the United States for disposition according to law, pursuant to Title 18, United States Code, Section 981. The Claimant shall not be required to return any interest generated from the Claimant Funds while in the possession of the Claimant.

7. The Claimant's claim to the funds in Cyprus Golden Shores Account is hereby dismissed with prejudice.

8. Upon the Claimant's receipt of Claimant Funds, the Claimant's claim for the Forfeited Funds shall be deemed to be dismissed with prejudice.

9. Upon the Claimant obtaining clear title to the Claimant Funds, the Claimant's claim in this action shall be deemed fully and finally satisfied.

10. The Claimant is hereby barred from asserting any claim against the United States or any of its agents and employees (including, without limitation, the Federal Bureau of Investigation (“FBI”) and the United States Attorney’s Office for the Southern District of New York (“USAO-SDNY”)) in connection with or arising out of the United States’ seizure, restraint, and/or constructive possession of the Defendant Funds, including, without limitation, any claim that the United States did not have probable cause to seize and/or forfeit the Defendant Funds (including the Forfeited Funds), that the Claimant is a prevailing party or that the Claimant is entitled to attorneys’ fees or any award of interest.

11. The Government is hereby barred from asserting any claim to any property, assets or funds presently in the actual possession of Claimant in connection with the FTC Action as of the date of the entry of the Stipulation and Order.

12. The Claimant hereby agrees that it shall not file any claim or petition for restoration or remission relative to the Forfeited Funds, or any action or motion seeking to collaterally attack the seizure, restraint, or forfeiture of the Forfeited Funds. Furthermore, the parties hereby waive all rights to appeal or to otherwise challenge or contest the validity of this Stipulation and Order of Settlement.

13. Each party shall bear its own costs and attorneys’ fees.

14. The signature pages of this Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Signature pages may be by fax or electronic transmission and such signatures shall be deemed as valid originals.

15. In the event that the Claimant learns that the amount that the FDIC currently holds relating to the Sunfirst Accounts (the “Actual Amount”) is less than the amount represented by

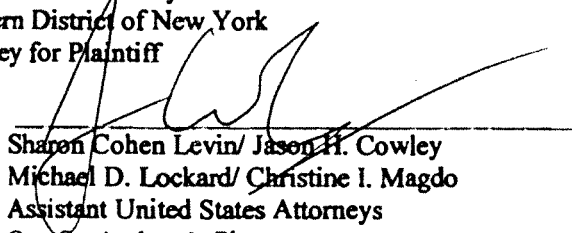
the FDIC and set forth in this Stipulation and Order (the "Represented Amount"), and the Represented Amount exceeds the Actual Amount by \$10,000 or more, the Claimant, within ten days of learning that the Represented Amount exceeds the Actual Amount by \$10,000 or more, shall file a notice (the "Discrepancy Notice") in the Forfeiture Action setting forth the Actual Amount. Within ten days of the filing of the Discrepancy Notice, either party may file a withdrawal notice stating that as a result of such discrepancy that party no longer wishes to enter into this agreement and the Stipulation and Order shall become null and void. If neither party timely files such withdrawal notice, the Stipulation and Order shall remain in full force and effect, and in such event the FDIC shall immediately transfer 50% of the Actual Amount to the United States Marshal Service and 50% of the Actual Amount to the Claimant Robb Evans. If the Actual Amount differs from the Represented Amount, but the Represented Amount does not exceed the Actual Amount by \$10,000 or more, then in such event the FDIC shall immediately transfer 50% of the Actual Amount to the United States Marshal Service and 50% of the Actual Amount to the Claimant Robb Evans.

16. After entry of the Stipulation and Order, the Claimant, who was appointed as a receiver in the FTC Action by the United States District Court for the District of Nevada (the "Nevada Court"), shall submit this Stipulation and Order for approval to the Nevada Court. In the event that the Nevada Court does not approve of the Claimant's entry into this Stipulation and Order, this Stipulation and Order shall become null and void and the Defendant Funds shall be returned to, and maintained in, a seized asset account maintained by the United States Marshal Service pending disposition of this matter.

AGREED AND CONSENTED TO:

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for Plaintiff

By:


Sharon Cohen Levin/ Jason H. Cowley
Michael D. Lockard/ Christine I. Magdo
Assistant United States Attorneys
One St. Andrew's Plaza
New York, New York 10007
(212) 637-1060/2193/2479/2297

7/2/13
DATE

[ADDITIONAL SIGNATURES ON FOLLOWING PAGE]

Robb Evans of Robb Evans and Associates LLC, Receiver


By:



Robb Evans

July 1, 2013
DATE

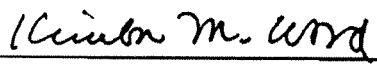
By:



Gary Owen Caris, Esq.
McKenna Long & Aldridge LLP
300 South Grand Avenue 14th Floor
Los Angeles, CA 90071
Tel: 213.243.6107
Attorney for Claimant

July 2, 2013
DATE

SO ORDERED:



THE HONORABLE KIMBA W. WOOD
UNITED STATES DISTRICT JUDGE

July 25, 2013
DATE