

**Keith Furlong**

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Catania Gaming Consultants

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**This past weekend was Memorial Day in the U.S.- the traditional start to the summer season and a time to honor veterans who lost their lives defending our freedoms. Happy Memorial Day to all our friends and colleagues.**

**On the gaming front, there is talk again about an effort for federal legislation with regard to online gaming in the U.S. Meanwhile, individual states in the U.S. continue to move forward with plans for each state's own version of regulated online gaming.**

**This newsletter has some interesting headlines, including: PokerStars deal to enter the NJ casino industry terminates; Visa communicates with merchants on coding for online gaming transactions; Ultimate Poker launches first legal, real money web site in Nevada; NJ gets help with its sports betting lawsuit; and the UK is pushing for more licenses from online operators.**

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**Welcome to another edition of the Catania Gaming Consultants Newsletter.**

**Sincerely,**

**Frank Catania, Gary Ehrlich, Toni Cowan, Professor Joe Kelly & Keith Furlong**

## **PokerStars Deal with Atlantic Club Terminates**

A New Jersey court has ruled that the Atlantic Club Casino Hotel can walk away from a sales deal with PokerStars and still keep the \$11 million in advances it has received. The decision not only allows Atlantic Club to look for a new buyer but may entitle it to an additional \$4 million termination fee from PokerStars. Thus, PokerStars and its parent company, Rational Group, may be forced to pay the full \$15 million it had offered for Atlantic Club without getting anything in return.

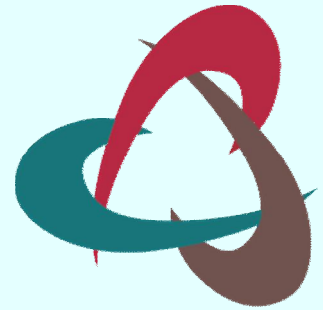
In December, PokerStars had agreed to buy the casino for \$15 million, which would have helped it gain a foothold into the U.S. online gambling market. The transaction was seen as mutually beneficial because the casino had struggled for years with revenue and profitability. When the deal was announced, Atlantic Club owner Colony Capital had \$30 million in unfunded pension liabilities. PokerStars agreed to fund operating shortfalls of as much as \$750,000 a week until the deal closed.

When a deal was not reached by the contractual deadline, PokerStars expressed optimism that the date would be extended to allow the transaction to be completed. However, Colony Capital refused to extend, and a judge in Atlantic County ruled against Rational Group, denying its request to keep alive its \$15 million purchase offer.

Several factors account for the deal's collapse. First, Atlantic Club's value shot up in February, when New Jersey Governor Chris Christie enacted an online gambling bill that requires online gaming operators to have a physical presence in the state. Rational Group said it believes Colony Capital terminated the agreement so it could attempt to sell the property for a higher price after the new legislation passed.

The deal also collapsed because Rational Group was not able to obtain a temporary license from gaming regulators in time for the agreement. Though PokerStars is one of the biggest

[UK May Require All Online Gaming Operators To Obtain UK License](#)



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*The Catania Consulting Group, Inc., doing business as Catania Gaming Consultants (CGC), offers a full service international gaming consultancy. CGC*

online gaming companies in the world, it has a troubled history in the U.S. In April 2011, during the U.S. Department of Justice's "Black Friday" crackdown on online gaming, PokerStars' U.S. operations were shut down and several PokerStars executives were accused of devising a system of fraud and money laundering to trick banks into processing illegal online gambling payments.

While PokerStars maintains it has done nothing wrong, it pulled out of the United States and settled a separate civil forfeiture case last year, paying hundreds of millions of dollars while admitting no guilt. Several individuals charged have pled guilty. The New Jersey Division of Gaming Enforcement was still investigating the company's application for a license, and indicated that it would not make a recommendation until at least the summer.

Significantly, papers filed in court by Atlantic Club also alleged that PokerStars founder Isai Scheinberg remains involved in the company and initiated contact with Atlantic Club during the sales and regulatory process, even though Scheinberg is barred from serving in any management or director role at PokerStars, according to the Justice Department settlement.

The American Gaming Association has opposed PokerStars' licensing petition, contending that licensure would undermine public confidence in gaming regulation and hurt the industry's public image.

## **VISA Recognizes That Not All Online Gambling Is Created Equal**

Credit card company VISA has finally recognized and informed its merchants and processors that not all online gambling transactions are created equal, and that many are now legal. In a bulletin to its acquirers, issuers, processors and agents, VISA stated that while the Unlawful Internet Gambling Enforcement Act (UIGEA) made processing payments for "unlawful" online gambling companies illegal, "issuers are reminded that not all transactions coded with Merchant Category Code (MCC) 7995 are from unlawful Internet gambling merchants."

Besides online gambling, the 7995 code encompasses purchases of everything from lottery tickets to casino chips to off-track betting wagers. The online poker companies indicted on "Black Friday" were accused of deliberately miscoding customers' transactions as sales of golf balls and other

*provides a variety of services to all sectors of the gaming industry, including governments, casino operators, game manufacturers, software providers, lotteries, payment processors and the horseracing industry.*

*Our goal is to provide clients with the information, experience, and contacts necessary to develop, regulate and operate both casinos and ancillary companies. The governments for which CGC has previously provided assistance in drafting gaming regulations and establishing gaming regulatory structures include the following: The Mohawk Territory of Kahnawake, located just outside Montreal; the United States Virgin Islands; Antigua and Barbuda; the Philippines; and the Canadian Provinces of Prince Edward Island and Nova Scotia.*

*Combined, the partners and associates of CGC listed below have over 75 years of gaming experience.*

innocuous items to circumvent UIGEA's prohibitions. But with state lotteries taking business online and with the recent launch of the first Nevada-licensed online poker site (see above) - which includes MasterCard among its deposit options - the credit card companies are being forced to modify their approach.

To help its clients stay compliant, VISA has announced that its Internet Gambling Stand-In Processing (STIP) Blocking Service "is able to differentiate between legal and potentially illegal gambling transactions." Merchants wishing to offer gambling clients the option to pay via credit card are encouraged to make use of VISA's Merchant Verification Value (MVV) Registration Program, which assigns a specific MVV code to merchants that have been "validated by their acquirers as processing legal transactions."

To be validated, a merchant has to provide evidence of proper legal authority for the gambling in question, a legal opinion stating the merchant's compliance with all applicable state and federal laws, third-party certification that the merchant has sufficient systems and controls to ensure the business stays within lawful limits, plus a \$5,000 registration fee. It will likely take some time before all financial institutions take note of VISA's guidance and adjust their behavior accordingly.

## **New Jersey Gets Support in Sports Betting Challenge**

Georgia, Kansas, Virginia, and West Virginia have all filed briefs in support of New Jersey in its battle to overturn the Professional and Amateur Sports Protection Act (PASPA).

The Attorneys General of the states are supporting New Jersey on grounds that a February court decision against New Jersey, which ruled that the state could not legalize sports betting because of a federal ban, threatens the system of dual sovereignty enshrined in the Constitution.

## **First Legal Online Real-Money Poker Site Launches in Nevada**

The first legal, pay-to-play online poker site in the United

States has finally launched. The site, Ultimate Poker, will allow players 21 and older and within Nevada's borders to play real-money poker games online.

Nearly two dozen casino operators and technology providers have been licensed since the state's online gaming regulations were adopted in 2011. Ultimate Poker became the first to launch, after its technology was certified by independent testing labs and the Nevada Gaming Control Board's technology staff.

The games, starting with limit and no-limit Texas hold 'em poker, have buy-ins from a few cents to \$100. The site will be accessible from both computers and mobile devices within Nevada's boundaries, and will offer single-table cash games, sit-and-go events, and multi-table tournaments.

Ultimate Poker, run by Ultimate Gaming, is owned largely by Station Casinos, a Nevada-based company controlled by brothers Frank Fertitta III and Lorenzo Fertitta. Station Casinos owns sixteen locations in Southern Nevada, where Ultimate Poker players can deposit money and cash out winnings in person, if they don't want to do it online.

Station Casinos also owns Ultimate Fighting Championship (UFC), which has cross-promoted Ultimate Poker to UFC fans, many of whom are also online poker players. The Ultimate Poker logo has received prime placement in the UFC fight octagon for months.

The launch is considered a "beta test" by Nevada authorities, and a report on the first 30 days of activity by Ultimate Poker will be reviewed by the Nevada control board at a public hearing. Ultimate Gaming must prove that its technology can prevent minors and out-of-state players from wagering real dollars, as well as guard against money laundering.

Because Nevada has a population of just 2.8 million people, it may be hard for Ultimate Poker to attract a critical mass of players around the clock. Earlier this year, Nevada Governor Brian Sandoval approved legislation that would allow Nevada to enter into compacts with other states to increase the online poker player pool.

Other states have already enacted legislation that would allow them to tap into the Internet gaming market, including New Jersey and Delaware. If and when other states get Internet

gaming off the ground, there is the potential for Ultimate Poker to become a major international player in the online poker world.

## **UK May Require All Online Gaming Operators To Obtain UK License**

A proposed bill in the UK would require all operators of online gaming that sell or advertise in the UK to obtain a UK license. It would also require operators based overseas to inform the UK Gambling Commission of any suspicious betting patterns involving British customers.

Currently, operators based in the UK are required to hold a Gambling Commission license, but those based overseas do not need a UK license if they are regulated in the jurisdiction in which they are based. They must be situated in and regulated by a white-listed jurisdiction, which includes all European Economic Area countries-i.e. countries in the European Union plus Iceland, Liechtenstein, and Norway-along with Alderney, Antigua and Barbuda, Gibraltar, Isle of Man, and Tasmania.

***Please feel free to contact us with any licensing and gaming compliance needs. Our law firm, Catania & Ehrlich, is also available for any of your gaming law needs.***

Sincerely,

**Frank Catania, Gary Ehrlich, Toni Cowen, Professor Joe Kelly and Keith Furlong**  
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