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PokerStars Dodges Subpoena For Casino License Docs

By **Joshua Alston**

Law360, New York (August 28, 2013, 9:37 PM ET) -- Online poker company PokerStars on Friday withdrew its bid to quash a subpoena demanding that New Jersey's gaming regulator turn over the company's casino license application, after the parties who issued it, plaintiffs in a related class action, withdrew the subpoena due to a discovery stay.

Rational Entertainment Enterprises Ltd., PokerStars' parent company, filed its motion in New Jersey federal court early this month, asking U.S. District Judge Renee Marie Bumb to stop the Division of Gaming Enforcement from turning over the company's casino license application to the plaintiffs in an Illinois putative class action that aims to recoup gambling losses incurred on the poker site. The plaintiffs withdrew the subpoena after the judge in the class action, U.S. District Judge Stephen C. Williams, issued a four-month stay of discovery.

Judge Williams granted PokerStars' motion to stay discovery Aug. 16, pending the court's consideration of its motion to dismiss the suit.

"The court finds that discovery here would be burdensome, and it should be deferred," Judge Williams said. "It is clearly too difficult for the parties to draw a clear line between class certification issues and general discovery issues."

The plaintiffs in the Illinois case sought the casino application while under a preliminary stay of discovery, the terms of which were disputed by the legal teams. PokerStars said in a brief that the DGE subpoena was a ploy by the plaintiffs to circumvent the stay order.

PokerStars also argued its casino license application was a confidential regulatory filing and contained proprietary information that should be sealed.

"Plaintiff's third-party subpoena served on the DGE seeks information to which plaintiff is plainly not entitled," the brief said. "Plaintiff's subpoena seeks personal, confidential and private information and documents related to [Rational] and other PokerStars entities and individuals, which were submitted to these agencies under a regulatory framework that ensures their confidentiality and protects them from public disclosure."

In a letter to New Jersey Deputy Attorney General Tracy E. Richardson, the Illinois plaintiffs' attorney Michael Gras of the Law Office of Christopher Cueto withdrew the subpoena but advised that they may reserve the subpoena after the stay of discovery is lifted.

The subpoena stemmed from a pending putative class action in which the lead plaintiff, Kelly Sonnenberg, said PokerStars' online poker rooms constituted illegal gambling according to Illinois law, and that Illinois players who lost money in the rooms should be reimbursed for their losses. Sonnenberg's complaint doesn't estimate the number of plaintiffs in the putative class, but says the class would include any PokerStars players in the state.

The suit was first filed in Illinois state court in January before being removed to federal court

in April. It names Rational as well as three of its executives, Isai Scheinberg, Paul Tate and Nelson Burtonick, and several other companies described in the complaint as "shell companies" that allegedly helped PokerStars illegally collect money from its online players in Illinois.

Rational filed a motion to dismiss the suit in April, arguing Sonnenberg's claim would call for double recovery from the company, which forfeited \$731 million in June 2012 to settle a suit filed by U.S. Department of Justice over allegations of fraud that Rational said are identical to those in Sonnenberg's lawsuit.

Rational applied for a casino license with the DGE in December in connection with its pursuit of the Atlantic Club, an Atlantic City, N.J.-casino. Rational struck an agreement to buy the Atlantic Club before its owners withdrew from the deal in May, citing concerns that a pall cast over PokerStars by the DOJ settlement could derail its ability to obtain a license. A trial judge ruled that the casino owners were contractually permitted to pull out of the deal because PokerStars failed to obtain its license prior to the closing deadline, and New Jersey's appellate court declined to revisit the matter in July.

DGE spokeswoman Lisa Spengler told Law360 earlier this month that casino license applications are considered confidential and that no information from them is made public aside from the name of the applicant, which is published on the DGE's website.

Representatives for Rational and the Illinois plaintiffs did not immediately respond to requests for comment Wednesday.

Rational is represented by A. Jeff Ifrah, David B. Deitch and Rachel Hirsch of Ifrah PLLC and Laura E. Craft-Schrick and William J. Niehoff of Mathis Marifian & Richter Ltd.

The Illinois plaintiffs are represented by Lloyd M. Cueto, Christopher F. Cueto and Michael J. Gras.

The cases are Rational Entertainment Enterprises Ltd. v. Kelly Sonnenberg, case number 1:13-cv-04670, in the U.S. District Court for the District of New Jersey, and Kelly Sonnenberg et al. v. Isai Scheinberg et al., case number 3:13-cv-00344, in the U.S. District Court for the Southern District of Illinois.

-- Editing by Elizabeth Bowen.

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