

**ORDER 2020-122
IN RE SETTLEMENT AGREEMENT**

**NYX DIGITAL GAMING (USA) LLC
20-NYX-01**

After having reviewed the attached Settlement Agreement, the Indiana Gaming Commission hereby:

APPROVED

APPROVES OR DISAPPROVES

the proposed terms of the Settlement Agreement.

IT IS SO ORDERED THIS THE 23rd DAY OF NOVEMBER, 2020.

THE INDIANA GAMING COMMISSION:



Michael B. McMains, Chair

ATTEST:



Jason Dudich, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)	
)	SETTLEMENT
NYX DIGITAL GAMING (USA) LLC)	20-NYX-01
)	

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”) by and through its Executive Director Sara Gonso Tait and NYX Digital Gaming (USA) LLC (“NYX”), (collectively, the “Parties”) desire to enter into this settlement agreement (“Agreement”) prior to the initiation of a disciplinary proceeding pursuant to 68 IAC 13-1-18(a). The Parties stipulate and agree that the following facts are true:

FINDINGS OF FACT

COUNT I

1. IC 4-38-5-4(a) provides a certificate holder or vendor may accept wagers on professional and collegiate sporting events approved for sports wagering by the commission, and other events as approved by the commission. A certificate holder or vendor may use data selected in a manner approved by the commission to determine whether a wager is a winning wager.
2. Chapter 7, Section 1(a) of the Emergency Rules for Sports Wagering provide before accepting wagers on any event category from patrons, a sports wagering operator must receive event category approval from the executive director or the executive director’s designee. The sports wagering operator shall provide notice to the executive director or the executive director’s designee and such notice shall include the name of the sports governing body and a description of its policies and procedures regarding event integrity. The commission reserves the right to prohibit the acceptance of any wagers, and may order the cancellation of wagers and require refunds on any event for which wagering would be contrary to the public policies of the state.
3. On August 10, 2020, the Commission’s Sports Wagering Investigator notified Gaming Agents that Caesars Southern Indiana, Harrah’s Hoosier Park, Indiana Grand, Horseshoe Hammond, the Off Track Betting facility in Indianapolis, the Off Track Betting facility in Clarksville and the Off Track Betting facility in New Haven had offered the Chinese Taipei Baseball League. The Chinese Taipei Baseball League was not a Commission-approved event category.
4. On August 17, 2020, the Commission’s Sports Wagering Investigator notified Gaming Agents that NYX, the platform provider for Caesars, added Chinese Taipei Baseball

League on April 8, 2020 in Caesars' Indiana properties when it was approved in New Jersey.

COUNT II

5. 68 IAC 2-6-2 (a) requires that the following may not be used for gaming by any casino licensee prior to the executive director, or the executive director's designee, authorizing their inclusion in the commission's online database of approved items and technologies: (1) Electronic gaming devices and any component parts material to gaming activity, including, but not limited to, the following: (A) Random number generators. (B) All game media. (C) Progressive controllers. (D) Bill changers.
6. 68 IAC 17-1-3 provides a casino licensee, casino license applicant, or supplier licensee shall use the commission's electronic gaming device database as prescribed by the commission.
7. In accordance with 68 IAC 17-1-2(a) and 68 IAC 17-1-3, when shipping an item approved under 68 IAC 2-6-2, the supplier is required to provide the Commission with an accurate inventory of each item to be shipped and delivered, including each item's identification code in the Commission's Electronic Gaming Device System.
8. On August 3, 2020, a sports wagering kiosk ("SWK") was delivered to Horseshoe Hammond. A second SWK was delivered on August 4, 2020. NYX shipped the SWK's without Commission approval. The following Horseshoe employees had no knowledge about who or why the SWK's were sent to property: the IT Manager, the Regulatory Compliance Manager, the Table Games Director, and the Sportsbook Manager.
9. On August 13, 2020, a Gaming Agent corresponded with the Caesars Corporate IT Manager who works out of Las Vegas. The Corporate IT Manager advised that two (2) SWK's had been out of order since earlier in the year and he had been working with NYX to get the SWK's repaired. NYX determined that the SWK's would need to be replaced but no details were provided on the timing of the replacement of the SWK's.

COUNT III

10. 68 IAC 2-2-6.1(d) provides that occupational licensing of an employee, independent contractor, agent, or subagent of a supplier licensee shall be governed by 68 IAC 2-3.
11. 68 IAC 2-3-9.2(b)(1) requires the occupational licensee to notify the Commission of separation on a form prescribed or approved by the Commission.
12. 68 IAC 2-3-9.2(c) requires the notification must be submitted to the Commission within fifteen (15) days of the occurrence of the change or action.
13. On March 11, 2020, the Commission was notified that a Customer Service Agent separated from NYX on February 20, 2020, failing to timely notify.

14. On August 21, 2020, the Commission was notified that a Customer Service Agent separated from NYX on July 11, 2020, failing to timely notify.
15. On July 20, 2020, the Commission was notified that a Senior Solutions Architect separated from NYX on November 8, 2019, failing to timely notify.

TERMS AND CONDITIONS

Commission staff alleges that the acts or omissions of NYX by and through its agents as described herein constitute a breach of IC 4-38, 68 IAC and/or the Emergency Rules for Sports Wagering. The Commission and NYX hereby agree to a monetary settlement of the alleged violations described herein in lieu of the Commission pursuing formal disciplinary action against NYX.

NYX shall pay to the Commission a total of \$8,000 (\$3,500 for Count I, \$1,500 for Count II and \$3,000 for Count III) and ensure that all wagers placed on all unapproved events, which are capable of being voided, are voided in consideration for the Commission foregoing disciplinary action based on the facts specifically described in the Findings of Fact contained in this Agreement. This Agreement extends only to those violations and findings of fact specifically alleged in the findings above. If the Commission subsequently discovers facts that give rise to additional or separate violations, the Commission may pursue disciplinary action for such violations even if the subsequent violations are similar or related to an incident described in the findings above.

Upon execution and approval of this Agreement, Commission staff shall submit this Agreement to the Commission for review and final action. Upon approval of the Agreement by the Commission, NYX agrees to 1) promptly remit payment in the amount of \$8,000; 2) ensure that all wagers placed on all unapproved events, which are capable of being voided, are voided; and 3) waive all rights to further administrative or judicial review.

This Agreement constitutes the entire agreement between the Parties. No prior or subsequent understandings, agreements, or representations, oral or written, not specified or referenced within this document will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all Parties.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by electronic mail, facsimile, or other electronic signature by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically as if the original had been received.

This Agreement shall be binding upon the Commission and NYX.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the date and year as set forth below.

Sara Gonso Tait, Executive Director
Indiana Gaming Commission

Date

Stephen E. Richardson

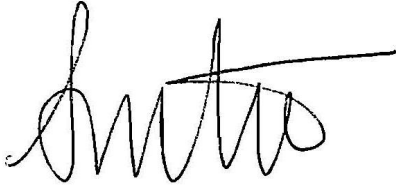
Stephen Richardson
Senior VP/Chief Compliance Officer
NYX Digital Gaming (USA) LLC

11/16/2020

Date

This Agreement shall be binding upon the Commission and NYX.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the date and year as set forth below.



Sara Gonso Tait, Executive Director
Indiana Gaming Commission

11/20/20

Date

Stephen Richardson
Senior VP/Chief Compliance Officer
NYX Digital Gaming (USA) LLC

Date