

**ORDER 2021-169
IN RE SETTLEMENT AGREEMENT**

**PENN SPORTS INTERACTIVE, LLC
d/b/a BARSTOOL SPORTSBOOK
21-PSI-01**

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

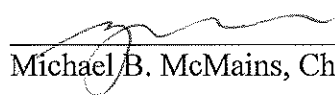
APPROVED

APPROVES OR DISAPPROVES

the proposed terms of the Settlement Agreement.

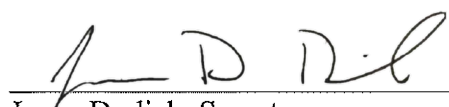
IT IS SO ORDERED THIS THE 29th DAY OF SEPTEMBER, 2021.

THE INDIANA GAMING COMMISSION:



Michael B. McMains, Chair

ATTEST:



Jason Dudich, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)	
)	SETTLEMENT
PENN SPORTS INTERACTIVE, LLC)	21-PSI-01
d/b/a BARSTOOL SPORTSBOOK)	

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”) by and through its Executive Director Greg Small and Penn Sports Interactive, LLC d/b/a Barstool Sportsbook (“PSI”), (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. 68 IAC 27-5-3(b) provides the house rules, together with any other information the executive director deems appropriate, shall be conspicuously displayed in the sports wagering lounge, posted on the sports wagering operator's Internet website, and included in the terms and conditions of the sports wagering account, and copies shall be made readily available to patrons.
2. 68 IAC 27-12-4(9) provides in order to establish a sports wagering account, a sports wagering operator shall record the patron's acceptance of the sports wagering operator's terms and conditions to participate in wagering through the mobile application or any authorized digital platform accepting wagers online. The terms and conditions must include the following: (A) Name of the party or parties with whom the patron is entering into a contractual relationship, including any licensee. (B) Patron's consent to have the licensee confirm the patron's age and identity. (C) Rules and obligations applicable to the patron other than house rules, including, but not limited to: (i) prohibition from allowing any other person to access or use the patron's account; (ii) prohibition from engaging in mobile wagering activity, unless the patron is physically present in Indiana; (iii) consent to the monitoring and recording by the operator or the division, or both, of any wagering communications and geographic location information; and (iv) consent to the jurisdiction of the state of Indiana to resolve any disputes arising out of sports wagering activity.
3. 68 IAC 27-13-1 provides each sports wagering website or mobile application shall display a responsible gaming logo in a manner approved by the executive director or the executive director's designee to direct a patron to the sports wagering operator's responsible gaming webpage. The responsible gaming webpage shall be accessible to a patron during a sports wagering patron session and shall contain, at a minimum: (1) a prominent message, which states: "If you or someone you know has a gambling problem and wants help, call 1-800-9-WITH-IT"; (2) a direct link to the Indianagamblinghelp.com website and other Internet

resources dedicated to helping people with potential gambling problems as directed by the commission; (3) a link to the Indiana statewide Internet self-restriction program administered by the commission; and (4) a clear statement of the sports wagering operator's policy and commitment to responsible gaming, along with a link to the sports wagering operator's specific self-exclusion program.

4. PSI's approved internal controls procedures, Section 4, describe Patron Protection.
5. On May 14, 2021, the VP of Compliance for PSI notified the Commission that PSI planned to launch its mobile sportsbook in Indiana on May 18, 2021.
6. The Commission's Director of Sports Wagering had notified PSI that their responsible gaming page did not contain the updated responsible gaming language. The VP of Compliance followed up and provided that this was not just an issue impacting the responsible gaming information but also the terms and conditions and house rules. PSI investigated this matter and determined that the deployment of the final policy documents for responsible gaming, terms and conditions and house rules did not make it to production and were still in the staging environment. As a result, patrons of the mobile application were prompted to accept blank terms and conditions. In addition, the house rules were blank since the links were not working. PSI provided that a total of 3,972 users were impacted. PSI was able to determine that none of the users clicked on the links to the policy documents. When the policy documents were finally deployed, all patrons were required to accept the terms and conditions when logging into the website or mobile application the next time.

COUNT II

7. 68 IAC 27-2-11 provides (a) a certificate of authority holder, vendor licensee, sports wagering service provider licensee, and a registrant have a continuing duty to maintain suitability for licensure. A license issued under this rule does not create a property right, but is a revocable privilege granted by the state contingent upon continuing suitability for licensure. (b) The sports wagering operators, sports wagering service providers, and registrant applicants are responsible for the following: (1) Ensuring that all aspects of the sports wagering operation are conducted in accordance with IC 4-33, IC 4-35, IC 4-38, 68 IAC, directives of the commission, applicable internal controls of the sports wagering operator, and all other state, federal, and local laws. (2) The acts of its employees and agents in the course of their employment.
8. 68 IAC 27-7-17 provides (a) that no sports wagering operator shall allow, conduct, or participate in any false or misleading advertising concerning its sports wagering operations. (b) All advertising and marketing materials published, aired, displayed, or distributed by or on behalf of any sports wagering operator shall comply with the following: (1) Must not directly advertise or promote sports wagering to minors. (2) Shall conspicuously display a prominent message, which states: "If you or someone you know has a gambling problem and wants help, call 1-800-9-WITH-IT". (3) Shall state patrons must be at least twenty-one (21) years of age or older to wager. (4) Shall not imply greater chances of winning versus other

sports wagering operators. (5) Shall not imply greater chances of winning based on wagering in greater quantity or amount. (6) All direct marketing shall allow the option to unsubscribe.

9. PSI is a licensed vendor and has exclusive control regarding the operations of the Barstool Sportsbook. Barstool is a digital sports, entertainment, lifestyle, and media company. In February 2020, Penn National Gaming, Inc. (“Penn”), the ultimate parent company of Penn Sports Interactive, LLC (“PSI”), entered into a strategic relationship with Barstool whereby Barstool provides various marketing services relating to Penn’s nationwide gaming offerings and provides to Penn a license to utilize the Barstool brand for certain gaming offerings, e.g. the Barstool Sportsbook. Barstool is an independent entity of which neither Penn nor PSI are majority owners.
10. On March 30, 2021, the VP & Chief Compliance Officer of Penn National Gaming self-reported to the Commission that a junior member of Barstool’s social media team posted a questionable video discussing gambling losses with a 12 second duration on a Barstool owned and controlled TikTok account. The video was deleted from the sole channel it ran (TikTok) as soon as the employee’s supervisor, Barstool’s Social Media Manager, became aware of the video. The video was live for twelve (12) hours. However, the video was clipped and reposted on Twitter by a third-party social media account that neither Barstool, Penn or PSI controlled or operated. As result, the remains viewable on Twitter.
11. On May 4, 2021, the VP of Compliance for PSI’s parent entity Penn Interactive Ventures, LLC responded to the Commission’s April 28, 2021 request for additional information. Therein, it was represented that the employee who posted this video on social media was suspended without pay for a month and the entire company received a refresher responsible gaming training the next day. The VP of Compliance also confirmed that the TikTok post was a selfie video and posted to a Barstool social media channel – not one related to or controlled by Penn, PSI, or the Barstool Sportsbook.
12. Barstool Sports, Inc. is a registrant with the Commission and provides marketing services to PSI’s Barstool Sportsbook in Indiana by producing digital content like podcasts, blogs, videos, social media, etc. Penn also holds an intellectual property license from Barstool to utilize the Barstool brand for specified gaming offerings, including PSI’s ability to brand its online sportsbook “The Barstool Sportsbook”. The social media post was created and posted exclusively by Barstool on its own behalf and on its own social media channel, which was not associated with or disseminated for Penn, PSI or the Barstool Sportsbook.

13

TERMS AND CONDITIONS

Commission staff alleges that the acts or omissions of PSI by and through its agents as described herein constitute a breach of IC 4-38, 68 IAC, and/or PSI’s approved internal control procedures. The Commission and PSI hereby agree to a monetary settlement of the alleged

violations described herein in lieu of the Commission pursuing formal disciplinary action against PSI.

PSI shall pay to the Commission a total of \$12,500 (\$5,000 for Count I and \$7,500 for Count II) 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.

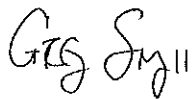
Upon execution and approval of this Agreement, Commission staff shall submit this Agreement to the Commission for review and final action. Upon approval of the Agreement by the Commission, PSI agrees to promptly remit payment in the amount of \$12,500 and shall waive all rights to further administrative 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 PSI.

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



Greg Small, Executive Director
Indiana Gaming Commission

9/28/21

Date



Rhea Loney, VP of Compliance
Penn Sports Interactive, LLC

9/27/2021

Date