ORDER 2024-40 IN RE SETTLEMENT AGREEMENT

PENN SPORTS INTERACTIVE, LLC d/b/a ESPN BET 24-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 21st DAY OF MARCH, 2024.

THE INDIANA GAMING COMMISSION:

Milton Thompson, Chair

ATTEST:

Jason Dudich, Secretary

STATE OF INDIANA INDIANA GAMING COMMISSION

IN RE THE MATTER OF:)	
	j j	SETTLEMENT
PENN SPORTS INTERACTIVE, LLC)	24-PSI-01
d/b/a ESPN BET	Ĵ	

SETTLEMENT AGREEMENT

The Indiana Gaming Commission ("Commission") by and through its Executive Director Greg Small and Penn Sports Interactive, LLC d/b/a ESPN BET ("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 27-1-2(16) defines a prohibited sports wagering participant as an individual listed on the commission's exclusion list kept under 68 IAC 6-1, that has a voluntarily excluded person (VEP) status as defined under 68 IAC 6-3 or has signed up for the statewide internet self-restriction program (ISRP).
- 2. 68 IAC 27-13-2(d) provides that sports wagering operators must restrict wagering by statewide Internet self-restriction participants and may not market to statewide Internet self-restricted participants.
- 3. 68 IAC 27-14-2(c) provides a sports wagering operator may not knowingly accept a wager from such prohibited sports wagering participants.
- 4. 68 IAC 6-3-4(a) provides each casino licensee and casino license applicant shall establish internal control procedures for compliance with this rule, which shall be submitted and approved under 68 IAC 11.
- 5. 68 IAC 6-3-4(b)(3) provides the internal controls must, at a minimum, address that the casino licensee must refuse wagers from and deny gaming privileges to any voluntarily excluded person.
- 6. 68 IAC 13-1-1(b)(2) and (3) provides the Commission may initiate an investigation or a disciplinary action, or both, against a licensee if the Commission has reason to believe the licensee is not complying with licensure conditions or is not complying with this Act or this title.
- 7. Penn Sports Interactive's approved internal controls describe the procedures for prohibited participants.

8. On November 22, 2023, the Senior Director of Compliance from Penn Sports Interactive notified the Commission that during the transition from Barstool Sports to ESPN Bet, one (1) prohibited participant had an active account while on the exclusion list. Upon investigation, it was determined that the prohibited participant was excluded for a period of five (5) years, effective August 4, 2023. The account activity indicated that the prohibited participant had been active starting August 20, 2023, and ending November 17, 2023. There was a total of twenty-two (22) wagers with a total payout of \$699.31. Penn Sports Interactive confirmed that a software failure led to the incorrect DAP message being transmitted between PennGen and Penn Sports Interactive systems.

COUNT II

- 9. IC 4-38-5-4(a) states 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.
- 10. 68 IAC 27-7-1 provides 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 sport's 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 negatively impact the integrity of sports wagering in the state.
- 11. 68 IAC 27-2-11(b)(1) provides that sports wagering operators, sports wagering service providers, and registrant applicants are responsible for 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.
- 12. On December 20, 2023, Penn Sports Interactive notified the Commission's Sports Wagering Division of an incident report involving unapproved college basketball games.
- 13. On December 15, 2023, Penn Sports Interactive completed a monthly audit for all college basketball games offered in November 2023. The audit identified twenty-six (26) college basketball games involving Division I NCAA teams with opponents who were from leagues not approved for wagering. The error occurred as there were non-Division I teams listed on the Penn Sports Interactive platform prior to the company's migration of its risk and trading services in July 2023, as other jurisdictions allowed wagering on these events. Prior to the migration, Penn Sports Interactive's basketball trading team was tasked with conducting a review of all collegiate basketball teams and required to remove all non-Division I NCAA teams on June 29, 2023. Not only did the basketball trading team fail to remove the non-Division I NCAA teams but they also failed to do daily manual checks prior to enabling games on the trading system platform.

14. There was a total of three hundred thirty-four (334) wagers placed on the twenty-six (26) games by a total of two hundred forty-three (243) patrons. The wagers took place between November 06, 2023, and December 09, 2023. The total amount wagered on the unapproved events was \$10,259.50. Patrons that had winning wagers were paid and were able to keep their winnings. The wagers that were determined to be a loss received a cash credit on their account in the amount that was wagered.

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 \$18,000 (\$5,000 for Count I and \$13,000 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 \$18,000 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 Parset forth below.	rties have signed this Agreement on the date and year as
Greg Small, Executive Director Indiana Gaming Commission	Chris Soriano, VP/Chief Compliance Officer PENN Entertainment, Inc
3/13/24	March 11, 2024
Date	Date