

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

MASSACHUSETTS GAMING
COMMISSION

In the Matter of:

Crown MA Gaming, LLC d/b/a DraftKings
Noncompliance Incident

DECISION

This matter came before the Massachusetts Gaming Commission (hereinafter, “Commission”) for a determination as to whether Temporary Category 3 Sports Wagering Operator Crown MA Gaming, LLC d/b/a DraftKings’ (hereinafter “DraftKings”) actions violated G.L. c. 23N, § 13; 205 CMR 247.07(7); and 205 CMR 248.10(3). This decision results from the adjudicatory proceeding conducted by the Commission on September 19, 2024, and November 20, 2024, via remote collaboration technology. On September 19, 2024, DraftKings was represented by Pete Harrington, DraftKings Senior Corporate Counsel and on November 20, 2024, DraftKings was represented by Tony Starr and Caitlin Hill of Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C. At both hearings the Investigations and Enforcement Bureau (“IEB”) was represented by Enforcement Counsel Zachary Mercer. Director of the IEB, Caitlin Monahan and then Interim Chief Enforcement Counsel Kathleen Kramer were also present.

The adjudicatory proceedings were conducted in accordance with 205 CMR 101.01; Massachusetts General Law chapter 30A, sections 10 and 11; and 801 CMR 1.02: *Informal/Fair Hearing Rules*. This matter involved DraftKings permitting customers to deposit and use credit card funds on wagers in Massachusetts. There were three periods of non-compliance discovered by DraftKings and self-reported to the Commission, the first on May 31, 2023, for wagers that occurred between March 10, 2023 and May 31, 2023; the second on July 14, 2023, for wagers that occurred between May 31, 2023 and July 13, 2023; and the third on February 13, 2024 for wagers that occurred on August 18, 2023 and January 13, 2024.

At the direction of the Chair, the entire Commission presided over the matter.¹ For the reasons set forth below, the Commission finds that DraftKings violated G.L. c. 23N, § 13 and 205 CMR 247.07(7) and 205 CMR 248.10(3) from March 10, 2023, to February 13, 2024. It is important to note that the Massachusetts Legislature established the non-extension of credit as a fundamental tenet of the passage of the sports wagering law in the Commonwealth. DraftKings’ failure to prohibit the use of credit card funds in Massachusetts wagers resulted in 1,160 impermissible wagers, funded by 242 credit card deposits, placed by 218 customers, with a total

¹ On October 28, 2024, Jordan Maynard was designated Chair of the Commission (previously presiding as Interim Chair). On the same date Paul Brodeur was appointed as a Commissioner and subsequently participated in the November 20, 2024. DraftKings consented to Commissioner Brodeur’s participation in the hearing.

handle of \$83,667.92. As a result of these repeated statutory and regulatory violations, the Commission hereby fines DraftKings \$450,000.² In addition, the Commission orders that DraftKings:

1. Provide proof to the Commission that the \$83,667.92 of improperly accepted credit card funds were returned to the 218 customers at issue.
2. Develop a corrective action plan to ensure that regulatory communications are properly communicated internally and that no credit card deposits will be accepted or used for wagers, given the previous ineffective fixes and statutory and regulatory violations.
3. Perform an internal audit by an independent 3rd party auditor approved by the Commission to verify that no additional credit card funds were deposited and/or wagered with Massachusetts accounts between February 23, 2023 (the date DraftKings acquired its temporary license) through the date that DraftKings went live on March 10, 2023. The required auditor must be hired within ninety (90) days and the audit must be completed within a period of ninety (90) days from retention.

I. Factual Findings and Procedural Background

The Commission's decision is based upon the information contained in the exhibits as well as the witness testimony presented at the hearings. All witnesses were duly sworn in, and the Commission finds that each testified credibly. The Commission adopts all factual findings contained in the IEB's and DraftKings' submitted exhibits, including Exhibits 1- 45 as set forth below. The Commission sets forth the relevant facts contained in those exhibits here.

On November 21, 2022, DraftKings applied for an Untethered Category 3 Sports Wagering License. In its application, Bill Curtis, DraftKings' Director of Licensing was listed as the "primary contact" for this application.³ On February 23, 2023, DraftKings was awarded a temporary, one-year Category 3 Sports Wagering Operator License. On March 10, 2023, DraftKings received its operations certificate and launched its Massachusetts sportsbook to the public on the same day.

On January 11, 2023, DraftKings' Senior Manager of Regulatory Operations, Kevin Nelson, sent the Commission's Sports Wagering team an introductory email which explained that Mr. Nelson and the Regulatory Operations team would be responsible for ensuring regulatory compliance and would work directly with regulators. This email also copied Mr. Curtis. (Exhibit 43, DraftKings_0002139).

On January 24, 2023, DraftKings sent several pre-launch regulatory submissions for review and approval to Bruce Band, Director of the Sports Wagering Division and Sterl Carpenter, Sports Wagering Operations Manager. (Exhibit 26). These included a draft of their House Rules. Id. The draft House Rules contained the following language in Section 9:

Methods of Funding a Wager: Sports Wagers may be funded through multiple options, including, without limitation, customer deposits and site/promotional credits. Deposits

² This was not a unanimous decision by the Commission.

³ While the License Application was not marked as an Exhibit, the Commission takes Judicial Notice of this fact.

can be made through Debit Cards, Online Banking, PayPal, Play+ Cards, Bank Wire Transfers, Cash at Retail, and approved Gift Cards, and may include any other method approved by the Massachusetts Gaming Commission.” (Exhibit 27).

On January 26, 2023, prior to launch and prior to DraftKings obtaining a temporary Category 3 Sports Wagering License, Executive Director Karen Wells, sent an email to Rebecca Hoffman, Licensing Specialist at DraftKings. This email was sent to all the points of contact for the sports wagering applicants. Director Wells emailed to confirm compliance with Massachusetts statutory and regulatory laws regarding the prohibition of the use of credit cards for sports wagering. (Exhibit 6). Ms. Hoffman was a direct report to Bill Curtis, Director of Licensing⁴ (Exhibit 17, page 2). Normally, the DraftKings process for the intake of this type of inquiry would go through Mr. Curtis, however, due to Mr. Curtis’ past employment with the Commission, he had delegated the responsibility to respond to any MGC request to Ms. Hoffman. (Exhibit 24, page 5; Exhibit 3 at 1:38). Mr. Curtis told Ms. Hoffman to obtain answers from a DraftKings Subject Matter Expert (“SME”) in the relevant area, and directed her to DraftKings’ Director of Payment Operations, Dickson Jay (“Mr. Jay”). (Exhibit 24 page 5, Exhibit 3 at 6:21, Exhibit 17 page 2, Exhibit 43, DraftKings_0000997).⁵

Mr. Jay was not the appropriate SME in this area, so he further inquired of Senior Product Manager, Grace Tate (“Ms. Tate”) in an inter-office instant message chain. (Exhibit 8). Mr. Jay forwarded the questions in Director Wells’ email to Ms. Tate, and she provided answers that substantively made up the response DraftKings submitted to Director Wells. (Exhibit 9, Exhibit 43, DraftKings_0000997). For reasons that remain unclear, Ms. Hoffman did not forward the entirety of Ms. Wells’ email during this process. Regarding Director Wells’ specific question on DraftKings’ ability to block out of state credit card funds in wagers, Ms. Tate informed Mr. Jay that DraftKings had the pertinent capabilities and noted that DraftKings performs the credit card blocking function in Tennessee (Exhibit 8, Exhibit 17 page 2). Ms. Tate testified that she did not understand the question from Mr. Jay to be asking if DraftKings was currently preventing the Out-of-State Scenario, only that it was an inquiry whether DraftKings had the technical capability to prevent such a scenario.

DraftKings’ Licensing Department did not forward Director Wells’ Email to its Regulatory Operations Division as they did not interpret the questions as regulatory guidance. (Exhibit 10). DraftKings indicated that due to this misinterpretation, the licensing and product experts communicated only with each other, rather than involving the Regulatory Compliance Team. (Exhibit 17, pages 2-3). Ms. Hoffman testified that she did not forward either Director Wells’ email or the formal response back to anyone else at DraftKings. DraftKings admitted that Director Wells’ email should have been passed on to Mr. Nelson and the Regulatory Operations team. As for the failure to block out of state credit card funds in wagers in Massachusetts, DraftKings’ attempted to attribute the failure to the improper interpretation of Karen Wells’

⁴ As noted above, judicial notice is taken that DraftKing’s listed Bill Curtis as the point of contact on their application.

⁵ While Mr. Curtis delegated the responses connected to the Massachusetts application to Ms. Hoffman purportedly to remove any appearance of conflict given his past employment, he nonetheless remained actively involved in this response.

Email as regulatory guidance. (Exhibit 24 at page 8, Exhibit 4 at 10:11 -10:38; Exhibit 2 at 38:26-38:51).

In addition to the regulatory guidance provided by Director Wells in her January 26, 2023 email referenced above, pursuant to 205 CMR 244, Massachusetts requires an independent review of sports wagering equipment to ensure compliance with G.L. c. 23N. GLI conducted its review of DraftKings prior to launch and, on February 24, 2023, issued a certification of compliance for DraftKings, which was provided directly to the Commission. (Exhibit 43, DraftKings_0002140).

On April 25, 2023, at a public meeting, the Commission discussed indirect funding and the ability of sports wagering platforms to block a credit card from funding a deposit with a Massachusetts operator. The Commission directed the Sports Wagering Division to draft universal language for the operators to include in their house rules. On May 1, 2023, Mr. Carpenter contacted all sports wagering operators by email and requested that they each add specific language to their house rules stating: “***In no event may a Massachusetts account be funded through a form of credit.***” (Exhibit 32, Exhibit 43 DraftKings_0000754). On May 2, 2023, DraftKings submitted an updated draft of its House Rules proposing the following language: “In no event will you fund your account via a form of credit ***while physically located in Massachusetts.***” (Exhibit 33 at section 9 “Methods of Funding a Wager.” (emphasis added)).

At the May 30, 2023, public meeting of the Commission, then Deputy General Counsel Caitlin Monahan and Director Wells explained that the out-of-state scenario had come to their attention and that they needed to “raise the flag” with the Operators. During the meeting Director Wells referenced the email she had sent to DraftKings and all the prospective operators on January 26, 2023, and Draft Kings’ response. (Exhibit 35). Shortly thereafter, Director Band and Mr. Carpenter had a call with Mr. Nelson of DraftKings. (Exhibit 36, Exhibit 43 DraftKings_0000991). On that call, Director Band, Mr. Carpenter, and Mr. Nelson discussed Director Wells’ January 26, 2023 email to Ms. Hoffman, and Director Band forwarded a copy of the correspondence to Mr. Nelson. (Exhibit 7). Mr. Nelson informed his manager, Jacob List, and sent correspondence to Mr. List with proposed steps to follow up with the Commission. (Exhibit 43 DraftKings_0001002). Mr. Nelson also confirmed that DraftKings’ House Rules would be updated with the language previously provided to all operators by the Commission stating: “In no event may a Massachusetts account be funded through a form of credit.” (Exhibit 32, Exhibit 37, Exhibit 38 at section 9 “Methods of Funding a Wager”).

On May 31, 2023, DraftKings reported that from its launch on March 10, 2023 it had allowed the use of credit card funds on wagers in Massachusetts. (Exhibit 16 at page 2). DraftKings indicated that the issue had been resolved via a software update on May 31, 2023. (Exhibit 16 at page 2). The DraftKings Incident Report dated June 21, 2023 stated “However, it was not understood by the stakeholders compiling the responses that this guidance was additional to the language already provided by the regulation and was not circulated to the teams responsible for state launch compliance and thus ensuring this functionality was applied to Massachusetts and active in advance of sports betting launch.” (Exhibit 10). Further, “while the root cause of this issue was an internal communication breakdown, DraftKings believes that due

to the anomalous sequence of events that we do not expect similar issues to arise going forward.” (Exhibit 10). DraftKings did not actually conduct an audit of the fix at that time.

In July 2023, Draft Kings instituted an update to its credit card prohibition technology in Tennessee. (Exhibit 20). At that time, Draft Kings realized that they had not in fact corrected the credit card failure in Massachusetts. *Id.* On July 14, 2023, Joseph McCann, DraftKings’ Regulatory Incidents Senior Manager, reported that the May 31, 2023 update was ineffective and credit card funds continued to be used on wagers through July 13, 2023. (Exhibit 16 at page 2). DraftKings provided another Incident Report dated August 1, 2023, noting that the matter had been fully resolved following the implementation of another software update on the evening of July 13, 2023 (Exhibit 11). The second DraftKings Incident report stated: “While some miscommunication occurred between teams, DraftKings views the root cause as the lack of complete functionality testing during an emergency release. We believe more robust functionality testing would have prevented the issue, and the related proposed remediation measures are designed as such to prevent a repeat issue. ... each team must verify that end-to-end testing has been completed on the change and assure its full functionality” (Exhibit 11).

On July 26, 2023, DraftKings submitted a certification signed under the pains and penalties of perjury, by Paul Liberman, President and CEO of DraftKings, stating that DraftKings “is prohibiting any use of credit cards to place Sports Wagers on its sports wagering platform in Massachusetts, including without limitation funds deposited into a player wallet using a credit card while located outside of Massachusetts.” (Exhibit 14).

On February 13, 2024, DraftKings reported that its software fix implemented on July 13, 2023 was ineffective, acknowledging that it had accepted two additional wagers on its Pools product following the reported successful July remedy. (Exhibit 18, Exhibit 21). After DraftKings shared this information with the Commission, the Commission continued the originally scheduled February 14, 2024 adjudicatory proceeding pending further investigation by the IEB.

On September 19, 2024, an adjudicatory hearing on this matter began. As a result of the presentation of evidence and testimony from the IEB and DraftKings, the matter remained open and was ultimately scheduled to resume on November 20, 2024. In the interim, the Commission requested that DraftKings provide additional documents in advance of the second hearing date and directed DraftKings to make additional witnesses available for questioning. DraftKings also submitted additional documents to be included in the exhibit list. On November 20, 2024, the Commission resumed the adjudicatory hearing and took additional documentary evidence and heard testimony from additional DraftKings witnesses who had firsthand knowledge of the events at issue.

During that testimony the Commission discovered that there may have been other wagering using credit card funds not previously identified. Mr. McCauley stated that DraftKings had allowed deposits via credit card by patrons in Massachusetts in the period between the enactment of MGL c. 23N and the launch of March 10, 2023. Mr. McCauley confirmed that

DraftKings had the capacity to conduct a review to determine if any and to what extent those credit card sourced funds had been used to wager in Massachusetts.⁶

The evidence was presented to the Commission in the form of the forty-five (45) exhibits and ten (10) witnesses as outlined below in Sections III and IV. There were no objections made by the IEB or DraftKings in regard to the forty-five (45) exhibits or the witness list. The Commission considered all of the exhibits, in conjunction with all witness testimony, in reaching the final decision. The Commission finds that DraftKings failed to prohibit the use of credit card funds in Massachusetts that were deposited out of state from March 10, 2023, through February 13, 2024, in violation of G.L. c. 23N, § 13 and 205 CMR 247.07(7) and 205 CMR 248.10(3) and which resulted in 1,160 impermissible wagers, funded by 242 credit card deposits, being placed by 218 users, with a total handle of \$83,667.92. (Exhibit 25).

II. Standard of Review and Relevant law

1. The Commission retains the authority to condition, suspend, or revoke a sports wagering license, or issue a civil administrative penalty or a fine following an Adjudicatory Hearing conducted pursuant to 205 CMR 232.01(2). See also G.L. c. 23N, §16(i)
2. In addition to any other grounds specifically provided throughout M.G.L. c. 23K and 23N or 205 CMR, and without limiting the Commission's, the Bureau's or any other entity's ability to require compliance with M.G.L. c. 23N or 205 CMR through any other method, a Sports Wagering Operator License may be conditioned, suspended, or revoked, or the Operator assessed a civil administrative penalty, if the Commission, either on its own, or pursuant to a finding or recommendation of the Bureau in accordance with 205 CMR 232.00 determines that [] an operator is not in compliance with 205 CMR []. 205 CMR 232.02(1)(e)(2). See also M.G.L. c. 23N, § 21(b) [] An Operator failed to abide by any provision of M.G.L. c. 23K, 23N or 205 CMR, a condition of the Sports Wagering License, or an order of the Commission. 232.02(1)(f).
3. Pursuant to G. L. c. 23N § 16(i), “The commission may impose conditions on, suspend or revoke an operator's license or reprimand or assess a fine on an operator upon a finding that the operator: (i) has committed a criminal or civil offense under this chapter or under any other law; (ii) is not in compliance with sports wagering regulations promulgated pursuant to this chapter; (iii) is under criminal investigation in another jurisdiction; (iv) has breached a condition of licensure; (v) has affiliates, close associates or employees that are not qualified or licensed under this chapter with whom the operator continues to conduct business or employ; (vi) is no longer capable of maintaining operations as a sports wagering operator; or (vii) whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.
4. In this matter, the Commission determined that the IEB would conduct an investigation and serve as a party to the Adjudicatory Hearing.

⁶ As noted in the IEB’s Closing Argument for the IEB memorandum, whether this constitutes a non-compliance event is under separate review and as such is not part of this decision. See IEB Memo FN 1 at 4.

5. Where not prescribed by statute, the standard of proof in administrative proceedings is typically "preponderance of the evidence," meaning the evidence must show that it is more likely than not that the alleged violation occurred. This standard is constitutionally permissible for civil sanctions that do not implicate particularly important individual interests or rights. Medical Malpractice Joint Underwriting Ass'n of Mass. v. Commissioner of Ins., 395 Mass. 43, 46 (1985); Craven v. State Ethics Comm'n, 390 Mass. 191, 200, 454 N.E.2d 471, 476 (1983); see Lisbon v. Contributory Ret. Appeal Bd., 41 Mass. App. Ct. 246, 255 (1996) (party with burden of proof at administrative proceeding had "to establish his case by a preponderance of the evidence").
6. An "Operator" or "Sports Wagering Operator" is defined as "any entity permitted under this chapter to offer sports wagering to persons in the commonwealth through a category 1 license, category 2, or category 3 license. G. L. c. 23N § 3.
7. A "category 3" license is "a license issued by the Commission that permits the operation of sports wagering through a mobile application and other digital platforms approved by the Commission. G. L. c. 23N § 3.
8. An operator shall not accept: (i) a wager from a person who is less than 21 years of age; or (ii) a credit card. G. L. c. 23N § 13 (d).
9. A Sports Wagering Operator shall prohibit any use of credit cards, either directly or indirectly, including without limitation through an account funded by credit card, in placing Sports Wagers. 205 CMR 247.07(7).
10. No deposits may be made by credit card, either directly or indirectly, including without limitation through an account funded by credit card, and no Wagering on credit is allowed. 205 CMR 248.10(3).

III. Exhibits

The following exhibits were introduced without objection at the hearing and reviewed and considered by the Commission. At the request of the Commission, DraftKings also provided responses to specific questions related to the facts of the noncompliance incidents after the hearings.

Exhibit 1: Notice of Hearing – August 19, 2024

Exhibit 2: IEB Interview of Jacob List, April 25, 2024

Exhibit 3: IEB Interview of Bill Curtis, May 2, 2024

Exhibit 4: IEB Interview of Jeremy Mcauley, May 22, 2024

Exhibit 5: IEB Interview of Paul Liberman, June 24, 2024

Exhibit 6: The Wells Email, January 26, 2023

Exhibit 7: Wells Email Related Correspondence January 26, 2023 - May 30, 2023

Exhibit 8: DraftKings Instant Message Screenshot

Exhibit 9: DraftKings Response to Wells Email, January 26, 2023

Exhibit 10: DraftKings Incident Report, June 21, 2023

Exhibit 11: DraftKings Incident Report, August 1, 2023

Exhibit 12: DraftKings Correspondence with MGC SWD, July 14, 2023 - August 4, 2023

Exhibit 13: DraftKings Credit Card Certification Correspondence July 26, 2023

Exhibit 14: DraftKings Credit Card Funds Certification, July 26, 2023

Exhibit 15: DraftKings Credit Card Block Screenshot, July 26, 2023

Exhibit 16: IEB Noncompliance Review Report, October 20, 2023

Exhibit 17: IEB Supplemental Report and Attachments, January 22, 2024

Exhibit 18: DraftKings Incident Report, February 13, 2024

Exhibit 19: DraftKings Testing and Monitoring of Responsible Gaming Controls Memo Submitted February 13, 2024

Exhibit 20: DraftKings Response to IEB Supplemental Questions, March 29, 2024

Exhibit 21: DraftKings list of Massachusetts Pools Entries Using Credit Card Funds

Exhibit 22: DraftKings list of “High Risk” Areas, via email May 7, 2024

Exhibit 23: DraftKings Correspondence with MGC SWD, June 9, 2023 - June 28, 2023

Exhibit 24: IEB Supplemental Investigation Report, July 26, 2024

Exhibit 25: IEB Update to Supplemental Report Dated July 26, 2024

Exhibit 26: DraftKings Correspondence with MGC SWD, Jan 24, 2023

Exhibit 27: DraftKings Attachment: DraftKings_MA House Rules v1.0 (1-23-23)

Exhibit 28: DraftKings Correspondence with MGC SWD, Feb 13, 2023 - Feb 16, 2023

Exhibit 29: DraftKings Attachment: DraftKings_MA House Rules v2 (MGC comments_DK Revisions)

Exhibit 30: DraftKings Correspondence with MGC SWD, Feb 21, 2023 -March 3, 2023

Exhibit 31: DraftKings Attachment: DraftKings_MA House Rules v3

Exhibit 32: DraftKings Correspondence with MGC SWD, May 1, 2023 – May 12, 2023

Exhibit 33: DraftKings Attachment: DraftKings_MA House Rules_v4.0 (tracked)

Exhibit 34: MGC SWD Correspondence with DraftKings, May 30, 2023

Exhibit 35: MGC Public Meeting Packet, May 30, 2023

Exhibit 36: HD Meeting Suite: House Rules – Invitation for video meeting between DraftKings and MGC SWD, May 30, 2023

Exhibit 37: DraftKings Correspondence with MGC SWD, May 31, 2023 – June 2, 2023

Exhibit 38: DraftKings Attachment: DraftKings_MA House Rules_v5.0 (tracked)

Exhibit 39: MGC Public Meeting Packet, June 1, 2023

Exhibit 40: Notice of Hearing – October 29, 2024

Exhibit 41: MGC’s Correspondence with DraftKings: Request for Additional Information, September 27, 2024

Exhibit 42: DraftKings Correspondence with MGC: Supplemental Responses to MGC’s September 27, 2024, Request for Additional Information, November 5, 2024

Exhibit 43: DraftKings Supplemental Document Production

Exhibit 44: DraftKings Correspondence with MGC regarding the Supplemental Document Production, November 5 – 7, 2024

Exhibit 45: DraftKings Correspondence with MGC regarding the Supplemental Document Production, November 7, 2024

IV. Witness List

1. Michael Banks, IEB, Civilian Investigator
2. Jacob List, DraftKings Senior Director, Regulatory Operations
3. Bill Curtis, DraftKings Director of Licensing
4. Jeremy Mcauley, DraftKings Director of Product – Account Platform
5. Paul Liberman, DraftKings President & Chief Executive Officer
6. Joseph McCann, DraftKings Regulatory Incident Senior Manager
7. Nathan Saylor, IEB, Gaming Systems Analyst
8. Kevin Nelson, DraftKings Senior Manager of Regulatory Operations
9. Rebecca Hoffman, DraftKings Licensing Specialist
10. Dickson Jay, DraftKings Director, Payment Operations
11. Grace Tate, DraftKings Senior Product Manager

V. Analysis

The prohibition on the use of credit cards to fund sports wagering accounts in Massachusetts is reflected repeatedly in the sports wagering statute and in several related regulations. Massachusetts Sports Wagering Operators “**shall not** accept” “a credit card.” See G.L. c. 23N, § 13(d)(emphasis added). Massachusetts Sports Wagering Operators “**shall prohibit any** use of credit card, either **directly or indirectly...**” 205 CMR 247.07(7) (emphasis added). And “[n]o deposits may be made by credit card, **either directly or indirectly**, including without limitation through an account funded by credit card and no Wagering on credit is allowed.” 205 CMR 248.10(3)(emphasis added).

Further, the use of credit cards was discussed at length during a number of public meetings and Executive Director Wells went so far as to contact every Category 3 sports wagering operator to confirm their compliance with the credit card prohibition prior to launching their platforms in Massachusetts. While Director Wells’ January 26, 2023 email was sent to licensing specialist Rebecca Hoffman, that was the individual that DraftKings’ Director of Licensing, Bill Curtis, had designated to interact with the Commission during the application process which was ongoing at that time. Mr. Curtis was also copied on the January 11, 2023 email from Mr. Nelson introducing himself to the Commission and identifying himself as the leader of the DraftKings team responsible for regulatory compliance. Despite these undisputed facts, DraftKings did not implement sufficient controls to prevent the use of credit card funds in player accounts in Massachusetts.⁷ Even after discovering this non-compliance, DraftKings repeatedly failed to implement successful corrections to its platform to remedy the issue for nearly a year while also repeatedly reporting that the issue had been resolved.

There is a preponderance of the evidence showing that these violations occurred. In fact, DraftKings does not dispute any of the relevant facts addressed above or as contained in the forty-five (45) exhibits introduced into evidence during the two-day adjudicatory hearing. Instead, DraftKings contends that its noncompliance was based on a fundamental

⁷ DraftKings acknowledged it had previously implemented controls to prevent the use of out of state credit card funds in Tennessee, which legalized sports wagering prior to Massachusetts.

misunderstanding of the prohibition at issue and did not constitute purposeful contravention of the law and regulations. Despite framing the matter as a “misunderstanding” or an “anomalous series of events,” it is undisputed that DraftKings’ actions and inactions constitute both statutory and regulatory violations of G.L. c. 23N, § 13(d), 205 CMR 247.07(7) and 205 CMR 248.10(3). The Commission rejects the assertion that the statutory and regulatory requirements were subject to the interpretation put forth by DraftKings.

It is the Commission’s expectation when communicating with any of its licensees that information be promptly and widely shared internally within the operator’s organization, including with the relevant compliance and other departments to address any regulatory concerns. The Commission further expects that to the extent licensees have questions about any regulatory direction they reach out to the Commission immediately. In the instant case there was a clear breakdown in internal communications within DraftKings which was only compounded by a failure to implement and test a working technical solution after the communications failure was discovered by the regulatory operations team in May 2023. The siloed nature of Ms. Hoffman’s efforts to answer Director Wells’ questions combined with the failure to involve the regulatory operations team, despite Mr. Curtis’ knowledge of their front-line role in communications with the Commission, is highly concerning. This structure appears to have permeated these non-compliance events.

Per G.L. c. 23N, §§ 4, 16, and 205 CMR 232, and upon finding the violations described above, the Commission has broad discretion to issue civil administrative penalty, impose conditions on DraftKings’ license, suspend DraftKings’ license, revoke DraftKings’ license, reprimand DraftKings, and/or assess a fine on DraftKings.

After consideration of the law and facts, the Commission has determined that DraftKings is to be assessed a fine of \$450,000. In addition, the Commission orders that DraftKings:

1. Provide proof to the Commission that the \$83,667.92 of improperly accepted credit card funds were returned to the 218 customers at issue.
2. Develop a corrective action plan to ensure that regulatory communications are properly communicated internally and that no credit card deposits will be accepted or used for wagers, given the previous ineffective fixes and statutory and regulatory violations.
3. Perform an internal audit by an independent 3rd party auditor approved by the Commission to verify that no additional credit card funds were deposited and/or wagered with Massachusetts accounts between February 23, 2023 (the date DraftKings acquired its temporary license) through the date that DraftKings went live on March 10, 2023. The required auditor must be hired within ninety (90) days and the audit must be completed within a period of ninety (90) days from retention.

The Commission has determined that the amount of the fine and the conditions imposed are appropriate in light of the following considerations. First, the Commission appreciates that DraftKings self-reported to the Commission when the regulatory operations team learned of the non-compliance and on each occasion thereafter when technical fixes were found ineffective. However, this series of non-compliance incidents was a serious violation of statute and regulations upon which the Commission provided express advance instruction to DraftKings. Further, the series of non-compliance violations took place over nearly an entire year, with repeated representations by DraftKings that fixes they had implemented were later reported to

have failed, thus calling into question the reliability of their communications. The Commission is further seriously troubled by the level of internal miscommunication at DraftKings that prevented critical questions posed by the Commission from wide internal distribution to all appropriate stakeholders.

VI. Conclusion

For the foregoing reasons, the Commission finds that DraftKings violated G.L. c. 23N, § 13 and 205 CMR 247.07(7) and 205 CMR 248.10(3) from March 10, 2023, to February 13, 2024. DraftKings' failure to prohibit the use of credit card funds in Massachusetts wagers resulted in 1,160 impermissible wagers, funded by 242 credit card deposits, placed by 218 customers, with a total handle of \$83,667.92. As a result of these repeated statutory and regulatory violations, the Commission hereby fines DraftKings \$450,000. In addition, the Commission orders that DraftKings:

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SO ORDERED.

MASSACHUSETTS GAMING COMMISSION

By:


Jordan Maynard, Chair



Bradford R. Hill, Commissioner



Eileen M. O'Brien, Commissioner



Nakisha L. Skinner, Commissioner



Paul Brodeur, Commissioner



DATED: ____ July 25 __, 2025