

**ORDER 2023-143
IN RE SETTLEMENT AGREEMENT**

**BETFAIR INTERACTIVE US, LLC d/b/a FANDUEL SPORTSBOOK
23-FD-02**

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 15th DAY OF SEPTEMBER, 2023.

THE INDIANA GAMING COMMISSION:


Milton O. Thompson, Chair

ATTEST:


Jason Dudich, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)	
)	SETTLEMENT
BETFAIR INTERACTIVE US, LLC)	23-FD-02
d/b/a FANDUEL SPORTSBOOK)	

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”) by and through its Executive Director Greg Small and Betfair Interactive US, LLC d/b/a FanDuel Sportsbook (“FanDuel”), (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 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.
4. 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.
5. 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.
6. On March 20, 2023, for the 1st quarter of 2023, a Gaming Agent conducted a prohibited participant audit for FanDuel to ensure compliance with Commission regulations. The results of this audit identified nineteen (19) prohibited participant omissions.

COUNT II

7. 68 IAC 27-2-16(d) provides except as outlined in this section, occupational licensing of an employee, independent contractor, agent or subagent of a sports wagering operator shall be governed by IC 4-33-8 and 68 IAC 2-3.
8. 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.
9. 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.
10. On April 28, 2023, the Commission received a separation from service notification through the occupational licensing system, LAM, from FanDuel for the Sportsbook GM, showing a separation date of February 26, 2022, 426 days following separation. The Commission was not notified in a timely manner.
11. On March 6, 2023, the Commission received a separation from service notification through LAM from FanDuel for the following positions: Converge One Data Center Engineer, Converge One Network Engineer II, two (2) Customer Service Representatives, Senior IT Support Engineer, Lead Development Engineer, Senior Development Engineer, Fraud and Risk Associate and Lead Software Engineer - Release Engineer. The separation dates for these licensees occurred between June 30, 2022, and January 1, 2023, 64 to 249 days following separation. The Commission was not notified in a timely manner.
12. On March 10, 2023, the Commission received a separation from service notification through LAM from FanDuel for the Senior Engineering Manager, showing a separation date of November 29, 2021, 466 days following separation. The Commission was not notified in a timely manner.
13. On June 12, 2023, the Commission received a separation from service notification through the occupational licensing system, LAM, from FanDuel for the Converge One Data Center Engineer, showing a separation date of December 31, 2022. The Commission was not notified in a timely manner.
14. On June 12, 2023, the Commission received a separation from service notification through the occupational licensing system, LAM, from FanDuel for a Director, showing a separation date of March 20, 2023. The Commission was not notified in a timely manner.
15. On July 13, 2023, the Commission received a separation from service notification through the occupational licensing system, LAM, from FanDuel for the Payment Ops Associate, showing a separation date of May 1, 2023. The Commission was not notified in a timely manner.

COUNT III

16. 68 IAC 27-2-16(d) provides except as outlined in this section, occupational licensing of an employee, independent contractor, agent or subagent of a sports wagering operator shall be governed by IC 4-33-8 and 68 IAC 2-3.
17. 68 IAC 2-3 provides the licensing requirements for occupational licensees in Indiana.
18. 68 IAC 2-3-9(a) provides all occupational licensees have a continuing duty to maintain suitability for licensure. An occupational license does not create a property right, but is a revocable privilege granted by the state contingent upon continuing suitability for licensure.
19. 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.
20. On March 16, 2020, the Commission offered relief to Gaming Entities due to the Covid-19 pandemic and would not require fingerprints for applications that were critical to operations for thirty (30) days. The Commission, however, required acknowledgement that the notarized pages and fingerprints would be provided when available for each incomplete application.
21. On June 1, 2020, the Commission advised Gaming Entities if they had applications which could not be notarized or fingerprints were unavailable in their area, the Commission would still accept and process their applications. The Commission advised Gaming Entities that they must include a cover letter or e-mail communication (with an electronic copy of the application) that explained the circumstances around the incomplete application, and acknowledgement that the notarized pages and fingerprints would be provided when available.
22. On May 14, 2021, the Commission notified Gaming Entities that as of July 1, 2021, the Commission would require all pending fingerprints to be sent to the Commission, and from that date forward applications would be considered incomplete if they were submitted without fingerprints. Individuals who submitted applications without notarizations did not have to provide notarizations, unless specifically requested by the Commission.
23. On October 7, 2022, the Commission inquired with FanDuel about the status of a number of licensees that had not submitted fingerprints, as required. The Commission required these individuals to supply fingerprints within thirty (30) days. As a result, the due date was November 7, 2022.
24. On November 4, 2022, FanDuel's Outside Counsel advised of the extraordinary measures FanDuel was taking to submit fingerprints for a number of their individuals and advised it

would still require a matter of weeks to complete. FanDuel did not request an extension at this time and only advised the Commission that they would not be meeting the deadline of November 7, 2022.

25. On January 31, 2023, the Commission requested a status update on the individual's requiring fingerprints, as they were all still active in LAM, the Commission's Occupational Licensing Database. FanDuel did not provide a response.
26. On February 10, 2023, the Commission inquired with FanDuel to determine if there was a missed response from their Outside Counsel since a response was not received to the January 31, 2023 email communication.
27. On February 13, 2023, FanDuel responded to the Commission and advised that FanDuel continued to work on it. FanDuel confirmed that the Commission should be receiving the vast majority of the fingerprints within a week. FanDuel also provided that based on preliminary information that they had, there were a couple of individuals from overseas who had exercised their rights under foreign law to not be fingerprinted. FanDuel also believed there were a couple of U.S. based individuals who were no longer in positions that required licensure, so those fingerprints would not be included either. The Commission responded and requested a written response to the past communication and inquired if those individuals exercising their rights to not be fingerprinted were being termed or moved to non-licensed positions.
28. On February 24, 2023, FanDuel advised that they would have a fingerprinting vendor present in the Edinburgh office to collect fingerprints from most of its UK based employees on February 28th and March 1st. FanDuel anticipated the fingerprints being delivered to the Commission office the week of March 6, 2023.
29. On March 2, 2023, FanDuel advised that some of the fingerprints had been taken, some individuals were not able to be fingerprinted, and some had moved to roles that did not require a license and would not require fingerprints. The Commission advised FanDuel for the individuals whose positions were changed and no longer required licensure to use the actual date that their position change for their termination date. FanDuel was further advised that for the other individuals who were not fingerprinted already, those individuals could either relinquish their licenses by March 10, 2023 or the Commission would begin the revocation process. The Commission gave FanDuel a deadline of March 10, 2023, to submit the terminations in LAM.
30. On March 11, 2023, two (2) individuals were still active with no fingerprints received.
31. On April 4, 2023, and April 6, 2023, the Commission revoked these two (2) occupational licenses.
32. Thirty (30) individuals were temporarily licensed with the Commission and failed to submit fingerprints in a timely manner with two (2) ultimately being revoked by the Commission.

COUNT IV

33. 68 IAC 27-2-16(a) provides all key persons and substantial owners of a sports wagering operator applicant must obtain a Level 1 occupational license.
34. 68 IAC 27-2-16(d) provides except as outlined in this section, occupational licensing of an employee, independent contractor, agent, or subagent of a sports wagering operator shall be governed by IC 4-33-8 and 68 IAC 2-3.
35. 68 IAC 2-2-1(d) provides the applicant's key persons, substantial owners, and any other persons deemed necessary to allow the commission to ensure the applicant meets the statutory criteria for licensure set forth in IC 4-33, IC 4-35, and this title must complete and submit a Personal Disclosure Form 1 (PD1) application for occupational license under 68 IAC 2-3-1.
36. 68 IAC 2-2-4(b)(3) provides an application shall be deemed filed when the completed application forms, including all required documents, all personal disclosure forms, materials, photographs, and application fee have been submitted. The commission will not begin its background investigation until the application is filed.
37. On June 9, 2021, the Commission issued a directive to all Sports Wagering Operators on Sports Wagering Occupational Licensing that outlined the requirements for occupational licensing for Sports Wagering Operators.
38. On December 5, 2022, FanDuel appointed a new individual to the SVP, Chief Information Security Officer & IT position. Per the Sports Wagering Occupational Licensing Directive, the top cybersecurity position is required to hold a Level 1 license. As a result, the PD1 was due on January 5, 2023.
39. On March 14, 2023, the Commission's Director of Background Investigations inquired with FanDuel about some of their positions for reinvestigation and identified the SVP, Chief Information Security Officer & IT position as new and not being licensed.
40. On March 30, 2023, FanDuel filed the PD1 for SVP, Chief Information Security Officer & IT.
41. The SVP, Chief Information Security Officer & IT's PD1 was eighty-four (84) days late.

COUNT V

42. IC 4-38-9-5 provides that the commission and each certificate holder or vendor shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including by providing or facilitating the provision of betting information and audio or video files relating to persons placing wagers. Information shared under this section is confidential.

43. Pursuant to IC 4-38-9-5, a certificate holder or vendor is required to submit an IGC Fraud form within five (5) days when the certificate holder or vendor discovers suspicious criminal activity.
44. IC 4-38-9-6 provides a certificate holder or vendor shall promptly report to the commission any information relating to suspicious or illegal wagering activities, including use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, and using false identification.
45. 68 IAC 27-2-12 provides a sports wagering operator must make available for inspection by the commission, executive director, or its agents or investigators, local sheriffs, or their agents or investigators, and police departments, upon demand, all papers, books, and records produced, used, or kept in connection with sports betting, and all portions of the premises where sports betting is conducted or where a sports betting system is housed. Upon demand, employees and agents of the commission and division must be given access to any portion of the premises of a sports wagering operator for the purpose of inspecting or examining records or documents, sports betting systems, or the conduct of sports betting activity.
46. 68 IAC 27-12-5 provides a patron's sports wagering account for sports wagering may be funded through the use of: (1) a patron's credit or debit card; (2) a patron's deposit of cash or vouchers at a cashiering location approved by the executive director or the executive director's designee; (3) a patron's reloadable prepaid card, which has been verified as being issued to the patron and is nontransferable; (4) promotional credit; (5) winnings; (6) adjustments made by the sports wagering operator with documented notification to the patron; (7) an ACH transfer, provided that the operator has security measures and controls to prevent ACH fraud regarding failed ACH deposits; (8) a wire transfer; or (9) any other means approved by the commission.
47. 68 IAC 27-7-6 provides a patron may only place a wager via credit or debit card, whether the patron places the wager at a sports wagering lounge, sports wagering kiosk, online, or by a mobile device, if the patron has a sports wagering account with the sports wagering operator.
45. 68 IAC 27-2-11(a) provides 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.

(c) Certificate of authority holders, vendors, registrants, and sports wagering service provider licensees shall notify the commission of a material change in the information submitted in the application, or a matter that renders the licensee ineligible to hold a certificate of authority, vendor or sports wagering service provider license, or registration. (d) An ownership interest in a certificate of authority or vendor's license shall not be transferred unless the transfer complies with 68 IAC 5.

46. 68 IAC 27-4-2 provides a sports wagering operator shall provide a written notice to the executive director or the executive director's designee as soon as the sports wagering operator licensee becomes aware of the following: (1) A violation or apparent violation of a rule of the commission by any of the following: (A) The sports wagering operator. (B) A substantial owner, key person, or employee of the sports wagering operator. (C) A person acting, or authorized to act, on behalf of or in furtherance of the interests of the sports wagering operator licensee or an affiliate of the licensee.
47. Blue Chip's approved internal control procedures, SR-20, describe the Cash at the Counter transaction for the FanDuel Retail Sportsbook and FanDuel's Mobile Application.
48. On February 7, 2022, a FanDuel retail Sportsbook employee at the Blue Chip Casino identified suspicious wagering activity by a patron, specifically that the patron placed a large mobile deposit, wagered the amount deposited and then cashed out the wager prior to the event occurring. The patron then initiated a "Cash at the Counter" withdrawal request and retrieved the funds from Blue Chip Casino. FanDuel suspended the account and also notified the Blue Chip Casino's Director of Compliance ("BC-DOC") of this suspicious activity. The patron used an Arizona Federal Credit Union card to make forty-one (41) deposits into his mobile sports wagering account, totaling \$44,820.
49. On or about March 9, 2022, BC-DOC notified the Commission of this activity. The Commission launched a criminal and regulatory investigation into this matter. The investigation determined that a total of seven (7) other individuals were able to utilize the same payment source as the individual identified on February 7, 2022. In sum, these eight (8) individuals attempted 150 deposits, of which 126 were successful attempts resulting in \$145,367 deposited, seventeen (17) were attempted deposits that were either declined by FanDuel or failed for other reasons, and seven (7) were deposits that were later refunded after the accounts were closed. In total, these eight (8) individuals withdrew \$136,908, including \$35,650 in cash, from the Blue Chip's FanDuel Retail Sportsbook. The payment source did not belong to any of the eight (8) individuals that utilized it. An individual from whom these funds were fraudulently taken has indicated to the Commission that the individual experienced great harm as a result of these activities.
50. While FanDuel notified its partner at the Blue Chip Casino of the suspicious activity, and Blue Chip Casino made a report of this activity to the Commission in March 2022, FanDuel itself did not file a separate Fraud Form until July 1, 2022 as required by the Commission and FanDuel's internal control procedures.

51. FanDuel failed to timely and appropriately respond on numerous occasions to the Commission Gaming Agents during their investigation and supply the requested information, leading to a delay in the Commission's ability to complete its investigation. FanDuel has acknowledged shortcomings in the handling of this matter, including lack of follow up to ensure the information requested had been provided.
52. FanDuel did not comply with Commission rules with regard to funding wagering accounts.

TERMS AND CONDITIONS

Commission staff alleges that the acts or omissions of FanDuel by and through its agents as described herein constitute a breach of IC 4-38, 68 IAC, and/or FanDuel's approved internal control procedures. The Commission and FanDuel hereby agree to a monetary settlement of the alleged violations described herein in lieu of the Commission pursuing formal disciplinary action against FanDuel.

FanDuel shall pay to the Commission a total of \$110,000 (\$5,500 for Count I, \$7,000 for Count II, \$4,500 for Count III, \$3,000 for Count IV and \$90,000 for Count V) 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, FanDuel agrees to promptly remit payment in the amount of \$110,000 and 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.

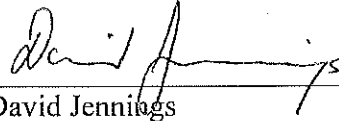
This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by electronic mail, facsimile, or other electronic signature by 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 FanDuel.

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



David Jennings
Chief Financial Officer
Betfair Interactive US, LLC d/b/a FanDuel
Sportsbook

9/13/23

Date

09/13/2023

Date