

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

MASSACHUSETTS GAMING COMMISSION

In the Matter of:

DraftKings Potential Noncompliance
Incident

DECISION

This matter came before the Massachusetts Gaming Commission (hereinafter, “Commission”) for a determination as to whether Category 3 Sports Wagering Operator Crown MA Gaming LLC d/b/a DraftKings (hereinafter “DraftKings”) actions violated G.L. c. 23N, § 3; 205 CMR 247.01(2)(i); and/or the Massachusetts Sports Wagering Catalog. DraftKings was alleged to have offered wagering on multiple unauthorized events involving the UTR Pro series, an unapproved tennis league, (hereinafter “noncompliance incident”). This decision results from the adjudicatory proceeding conducted by the Commission on July 24, 2023, via remote collaboration technology. At the direction of the Chair, the entire Commission presided over the matter. For the reasons set forth below, the Commission finds that DraftKings violated G.L. c. 23N, § 3; 205 CMR 247.01(2)(i); and the Massachusetts Sports Wagering Catalog. As a result, the Commission hereby issues a \$30,000 fine on DraftKings.

I. Background

On March 23, 2023, DraftKings Regulatory Incident Senior Manager, Joseph McCann, notified the Commission’s Sports Wagering Director Bruce Band that DraftKings offered wagering on the UTR Pro Series, an unapproved tennis league, from March 11, 2023, to March 22, 2023. Based on this self-report, the IEB conducted a review of the noncompliance incident and issued a Sports Wagering Noncompliance Incident Review Report dated April 13, 2023, (hereinafter “Report”). The Report was provided to the Commission and the Commission subsequently initiated this adjudicatory proceeding pursuant to G.L. c. 23N, §§ 4, 16 and 205 CMR 232.

The report explained that DraftKings accepted 864 wagers on UTR events, with a total handle of \$7,867.00 from March 10¹, 2023, through March 22, 2023.

DraftKings reported that their trading support team discovered that that UTR events were enabled for wagering upon launch and remained active until the date of discovery. DraftKings stated that the reason for this error was a miscommunication between the trading team and the trading compliance team. Their usual practice involves a weekly coordination between those teams to confirm authorized tennis wagering markets on a jurisdictional basis. This is done by

¹ Although the first reported wager occurred on March 11, 2023, the reported date that the unapproved events had been made available was the launch date of March 10, 2023, and therefore that is the considered the first incident date.

the submission of a file of the upcoming week's markets/events from the trading team to the trading compliance team. In this instance, DraftKings' trading team had copied the tennis offerings from a different jurisdiction without verifying Massachusetts approval with their trading compliance team.

DraftKings self-reported this matter and was cooperative with the IEB's investigation. Following these incidents of noncompliance, DraftKings voided all wagers on the unapproved events, and notified all impacted customers. Once the wagers were voided, any winnings were removed from the players' balances, and the stakes were returned, and any losing wagers also had the stake returned. Additionally, DraftKings removed the UTR markets upon their discovery, performed a review of all tennis markets to confirm compliance, and relayed to their trading team that all new market requests must be submitted to their trading compliance team prior to being made available.

A copy of the Report was provided to DraftKings along with a notice of this adjudicatory proceeding. IEB Enforcement Counsel Zachery Mercer appeared and testified credibly at the hearing on behalf of the IEB. DraftKings Senior Director, Regulatory Operations, Jacob List also testified extensively and was found to be credible.

II. Exhibits

The exhibits identified below were admitted into evidence at the proceeding without objection. The Commission considered all exhibits, in conjunction with witness testimony, in reaching the final decision.

Exhibit 1: Investigations and Enforcement Bureau Sports Wagering Noncompliance Incident Review Report, dated April 13, 2023

Exhibit 2: Notice of July 24, 2023, Hearing

III. Analysis

Per statute, regulation, and the Massachusetts Sports Wagering Catalog, Operators may not offer wagers on sporting events or wager categories until those events/categories are specifically authorized by the Commission and included in the Sports Wagering Catalog. G.L. c. 23N, § 3 (defining the terms "[s]ports event" and "sporting event" and stating that such events are "authorized by the commission"); 205 CMR 247.01(2)(i) ("[a]n Operator shall not offer Sports Wagering on... Any other Sporting Event or Wager Category until the Sporting Event or Wager Category has been approved by the Commission in accordance with 205 CMR 247.03").

DraftKings stipulated to the contents of Exhibit 1, the Report. The Commission adopts the findings of fact contained in the Report and finds that the evidence presented at the adjudicatory proceeding, as described above, collectively demonstrates that by allowing wagers on the UTR between March 10 and March 22, 2023, DraftKings violated G.L. c. 23N, § 3; 205 CMR 247.01(2)(i); and the Massachusetts Sports Wagering Catalog.

Per G.L. c. 23N, §§ 4, 16 and 205 CMR 232, and upon finding the violations described above, the Commission may issue a 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 \$30,000. G.L. c. 23N, § 16(i)(ii) and (vii). The Commission finds that DraftKings was not in compliance with sports wagering regulations promulgated pursuant to G.L. c. 23N and that the business practices that led to the noncompliance incident were injurious to the policy objectives of G.L. c. 23N. *See id.* The purpose of the fine is two-fold, serving both as a consequence for violating statute, regulation, and the Massachusetts Sports Wagering Catalog and as a deterrent from letting the same or similar violations occur again.

The Commission has determined that the amount of the fine is appropriate in light of the following considerations. First, the Commission appreciates that DraftKings self-reported to the Commission in a timely fashion and that they made all players whole that were affected by the incident. DraftKings has also worked to ensure that similar noncompliance events will not happen in the future, in particular by clarifying with their trading team that all new market requests must be submitted to the trading compliance team before being made available.

The noncompliance incident was, however, a serious violation of statute, regulation, and the Massachusetts Sports Wagering Catalog. The incident involved over 800 wagers over an eleven-day period (3/11/23-3/22/23) and consisted of wagers on an unapproved tennis league occurring at the launch of online sports wagering in Massachusetts. The Massachusetts Sports Wagering Catalog had been available for months preceding this incident and a failure to properly control DraftKings' offerings for unapproved leagues is unacceptable.

IV. Conclusion

For the foregoing reasons, the Commission finds that DraftKings violated G.L. c. 23N, § 3; 205 CMR 247.01(2)(i); and the Massachusetts Sports Wagering Catalog. As a result, the Commission hereby fines DraftKings \$30,000.

SO ORDERED.

MASSACHUSETTS GAMING COMMISSION

By:

Cathy Judd-Stein, Chair²

² Former Chair Judd-Stein was the Chair of the Commission during the hearing and deliberations in this matter, but has since retired from the Commission, thus her signature is omitted from this decision.



Bradford R. Hill, Commissioner



Jordan Maynard, Commissioner



Eileen M. O'Brien, Commissioner



Nakisha L. Skinner, Commissioner

DATED: August 27, 2024