

**COMMONWEALTH OF MASSACHUSETTS**  
**MASSACHUSETTS GAMING COMMISSION**

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In the Matter of )  
 )  
Request of Penn Sports Interactive, LLC )  
For a Durable Finding of Suitability )  
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**DECISION GRANTING PENN SPORTS INTERACTIVE, LLC  
A DURABLE FINDING OF SUITABILITY**

**DECISION AND ORDER**

This matter came before the Massachusetts Gaming Commission (“Commission”) upon a request by Penn Sports Interactive, LLC (“PSI”), doing business as ESPN BET, for an adjudicatory hearing to consider a durable finding of suitability for a category 3 sports wagering license. On January 30, 2025, the Commission conducted an adjudicatory hearing relative to the matter using remote collaboration technology. The hearing was held as described in 205 CMR 215.01(1)(d) and 205 CMR 101.01(2)(a), and conducted in accordance with 205 CMR 101.01, the informal fair hearing rules outlined in 801 CMR 1.02, and G.L. c. 30A. Enforcement Counsel Zachary Mercer represented the Investigations and Enforcement Bureau (“IEB”) and Samantha Haggerty, Deputy Chief Compliance Officer and Regulatory Affairs Counsel for PENN Entertainment, Inc. (“PENN”), represented the petitioners. After hearing and deliberation on the matter, the Commission hereby **GRANTS** PSI a durable finding of suitability.

**EXHIBITS**

The following exhibits were introduced without objection at the hearing and were reviewed and considered by the Commission:

1. Notice of Hearing, dated January 2, 2025;
2. IEB Report Regarding Full Suitability Investigation in Re: The Application of Penn Sports Interactive, LLC for a Category 3 Sports Wagering License (Tethered), dated January 7, 2025;
3. IEB Report Regarding Review for Preliminary Suitability, dated December 16, 2022, and attached amendment, dated January 12, 2023;
4. Report Regarding Review for Financial Suitability of Penn Sports Interactive, LLC, dated January 7, 2025; and

5. Letter to Investigations and Enforcement Bureau from Penn Sports Interactive, LLC, dated January 17, 2025.

The following individuals testified at the hearing:<sup>1</sup>

- Kevin Murphy, Civilian Investigator, IEB
- Monica Chang, Division Chief, Financial Investigations, IEB
- Daniel Maas, RSM US LLP (“RSM”)
- Chris Fitzgerald, RSM
- Chris Soriano, VP and Chief Compliance Officer, PENN

### **FINDINGS OF FACT AND PROCEDURAL HISTORY**

The Commission’s decision is based upon the information contained in the exhibits as well as the witness testimony presented at the hearing. 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 submitted exhibits, including Exhibits 2 – 4 as set forth above. The Commission sets forth the relevant facts contained in those exhibits.

PSI submitted an application for a Category 3 sports wagering operator license pursuant to G.L. c. 23N, § 6(b)(3), which included two entity qualifiers and six individual qualifiers<sup>2</sup>, by the November 21, 2022 deadline. The IEB conducted a review for preliminary suitability pursuant to 205 CMR 215.01(2)(a) and (b) and submitted its Report Regarding Review for Preliminary Suitability to the Commission on December 16, 2022.<sup>3</sup>

On January 4, 2023, the Commission voted unanimously at a public meeting to allow PSI to request a temporary Category 3 sports wagering license subject to conditions<sup>4</sup> specifically set forth in 205 CMR 220.01. On February 23, 2023, the Commission’s Executive Director issued a temporary Category 3 sports wagering license to PSI. PSI received its operations certificate on March 10, 2023, and PSI began operations on the same day. On August 8, 2023, PENN entered into a new agreement with ESPN, which resulted in the rebranding of PSI’s sportsbook platform from “Barstool Sportsbook” to “ESPN BET.”

Subsequent to the Commission’s issuance of the temporary Category 3 sports wagering license, the Massachusetts State Police Gaming Enforcement Unit assigned to the IEB (“GEU”)

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<sup>1</sup> The witness list submitted for purposes of this adjudicatory hearing included a number of additional individuals who did not offer testimony during the hearing.

<sup>2</sup> The qualifiers included PENN Entertainment, Inc., Penn Interactive Ventures, LLC, David Handler, Jay Snowden, Felicia Hendrix, Todd George and Christopher Rogers. The sixth individual qualifier, Aaron LaBerge, was designated during the IEB’s investigation of PSI and is undergoing a separate suitability investigation.

<sup>3</sup> An amendment to RSM’s report, included in Exhibit 3, was submitted to the Commission on January 12, 2023.

<sup>4</sup> Two conditions which were attached to Plainridge Park Casino’s (“PPC”) temporary Category 1 sports wagering license were also attached to PSI’s temporary Category 3 sports wagering license in connection with PENN’s marketing relationship with Barstool Sports, Inc. As discussed in the IEB’s report at Exhibit 2, it was noted in the Commission’s June 14, 2024 decision on PPC’s durable suitability that the condition regarding the Barstool College Football Show was rendered moot by PENN’s divestiture from Barstool Sports Inc. prior to the college football season and further, that PPC was cooperative with the IEB in satisfaction of the second condition in regard to the branding of PSI.

performed a further preliminary review of PSI. This included a review of both law enforcement sensitive and publicly available databases. No automatically disqualifying information was discovered during this review.

In addition, the Licensing Division re-scoped PSI's application based on the legislative amendment to G.L. c. 23N, § 5(b) and 205 CMR 215.02, identifying PSI's entity and individual qualifiers. On August 29, 2023, the Licensing Division deemed the application administratively complete, and it transmitted the application to the IEB for its full investigation.

The IEB, including members of the Financial Investigations Division and the GEU, performed this investigation for durable suitability under the direction of the IEB Director consistent with the directives of the Commission and in accordance with 205 CMR 215.01(1)(c).

The IEB also retained contract investigators comprised of retired members of the Massachusetts State Police, including former members of the GEU, and contract investigators from RSM. The investigation was supervised by GEU supervisory staff and, for financial matters, by the Chief of the IEB's Financial Investigations Division. The IEB's Office of the Chief Enforcement Counsel managed, reviewed, and provided guidance for the investigation.

On January 30, 2025, the Commission held an adjudicatory hearing using remote collaboration technology to review PSI's request for a finding of durable suitability. The hearing was held as described in 205 CMR 215.01(1)(d) and 205 CMR 101.01(2)(a), and conducted in accordance with 205 CMR 101.01, the informal fair hearing rules outlined in 801 CMR 1.02, and G.L. c. 30A.

### **ANALYSIS**

On January 4, 2023, the Commission awarded PSI a preliminary finding of suitability in connection with its application for a sports wagering operator license, submitted in November 2022. That determination was based on a review of factors set forth in both statute and regulation, including the following:

- The overall reputation of the applicant;
- The integrity, honesty, good character and reputation of the applicant/qualifier;
- The financial stability, integrity and background of the applicant/qualifier;
- The business practices and the business ability of the applicant to establish and maintain a successful sports wagering operation;
- Whether the applicant/qualifier has a history of compliance with gaming or sports wagering licensing requirements in other jurisdictions;
- Whether the applicant/qualifier, at the time of application, is a defendant in litigation;

- The suitability of all parties in interest to the license, including affiliates and close associates, and the financial resources of the applicant;
- Whether the applicant/qualifier is ineligible to hold a license under 205 CMR 215.01(4), G.L. c. 23N, § 9(a), or G.L. c. 23N, § 6(e);
- Whether the applicant/qualifier has been convicted of a crime of moral turpitude;
- Whether, and to what extent, the applicant/qualifier has associated with members of organized crime and other persons of disreputable character; and
- The extent to which the applicant/qualifier has cooperated with the IEB during the review of the application.

G.L. c. 23N, § 6(d); 205 CMR 215.01(2) and (3); 205 CMR 218.06(5)(f).

In reviewing PSI's request for a durable finding of suitability, the Commission heard testimony regarding PSI's entity qualifiers<sup>5</sup> and its financial suitability. Certain testimony regarding non-public financial information was presented in private session in accordance with 205 CMR 101.01(7) given its sensitive and/or competitive nature. No evidence of adverse findings with respect to any entity qualifier was disclosed, nor were there any concerns about PSI's financial suitability.

Detailed testimony regarding PSI's cybersecurity program was also presented in private session pursuant to 205 CMR 101.01(7) due to its sensitive and/or competitive nature. RSM provided detailed reporting on its investigation and evaluation. RSM concluded that PSI had no critical or high-risk areas and was working to address the moderate and low risk areas that were identified. PSI committed to addressing those areas discussed in the report.

There was a brief discussion regarding PENN's marketing relationship with ESPN and the branding of PSI's sportsbook as ESPN BET, including the line between the sportsbook and ESPN personalities. Chris Soriano, VP and Chief Compliance Officer for PENN, confirmed for the Commission that they have collaborated closely with ESPN on a robust set of policies as well as trainings to ensure that best practices are utilized. Mr. Soriano confirmed their commitment to continuing these conversations, including in light of recent comments made during ESPN BET segments.

The Commission acknowledges PSI's exemplary history of compliance with regulatory requirements. Recognizing PSI's obligation to maintain ongoing suitability as a licensee in the Commonwealth, and viewing the record as a whole, the Commission finds that there is clear and convincing evidence of PSI's durable suitability.

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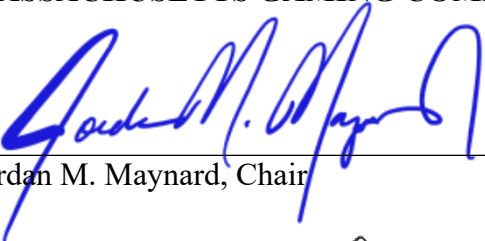
<sup>5</sup> Pursuant to G.L. c. 23N, § 6(d), "[t]he commission may use information obtained from the applicant pursuant to chapter 23K, chapter 128A, chapter 128C..." PENN was found suitable in 2013, and upon renewal in 2020, in connection with its gaming license for PPC under G.L. c. 23K. Similarly, five of PSI's six individual qualifiers were also found suitable based upon their connection to PENN pursuant to G.L. c. 23K. As previously noted, the sixth individual qualifier, Aaron LaBerge, is undergoing a separate suitability assessment.

**CONCLUSION AND ORDER**


For the foregoing reasons, the Commission finds that PSI has demonstrated its suitability by clear and convincing evidence, and accordingly, issues a **POSITIVE** determination of suitability.

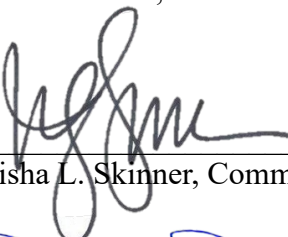
**SO ORDERED**

**MASSACHUSETTS GAMING COMMISSION**

  
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Jordan M. Maynard, Chair

  
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Eileen M. O'Brien, Commissioner

  
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Bradford R. Hill, Commissioner

  
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Nakisha L. Skinner, Commissioner

  
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Paul Brodeur, Commissioner

DATED: February 27, 2025