

**ORDER 2021-80
IN RE SETTLEMENT AGREEMENT**

**NYX DIGITAL GAMING (USA) LLC
21-NYX-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 25th DAY OF MAY, 2021.

THE INDIANA GAMING COMMISSION:



Michael B. McMains, Chair

ATTEST:



Jason Dudich, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)
)
NYX DIGITAL GAMING (USA) LLC) **SETTLEMENT**
) **21-NYX-01**
)

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”) by and through its Executive Director Sara Gonso Tait and NYX Digital Gaming (USA) LLC (“NYX”), (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. Chapter 2, Section 16(d) of the Emergency Rules for Sports Wagering provide 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.
2. 68 IAC 2-3-8(b) provides an occupational licensee must request renewal of the license on a form prescribed by the commission no less than thirty (30) days before the expiration of the occupational license.
3. On June 3, 2020, the Commission’s Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through August 31, 2020 and also included the date of expiration of each license.
4. On July 6, 2020, the Commission’s Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through September 30, 2020 and also included the date of expiration of each license.
5. On August 3, 2020, the Commission’s Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through October 31, 2020 and also included the date of expiration of each license.
6. On September 8, 2020, the Commission’s Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees.

The renewal report included each licensee that was expiring through November 30, 2020 and also included the date of expiration of each license.

7. On October 5, 2020, the Commission's Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through December 31, 2020 and also included the date of expiration of each license.
8. On November 4, 2020, the Commission's Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through January 31, 2021 and also included the date of expiration of each license.
9. On December 3, 2020, the Commission's Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through February 28, 2021 and also included the date of expiration of each license.
10. On January 4, 2021, the Commission's Gaming Administrator sent an email correspondence to NYX Digital that included a renewal report for occupational licensees. The renewal report included each licensee that was expiring through March 31, 2021 and also included the date of expiration of each license.
11. A Principal Sports Wagering Engineer, a level two (2) licensee, was listed on all eight (8) renewal reports. The Principal Sports Wagering Engineer's license expired on August 20, 2020. The Principal Sports Wagering Engineer did not timely renew the license or request that the license be inactivated. The Principal Sports Wagering Engineer was renewed on February 24, 2021.
12. A Customer Service Agent, a level two (2) licensee, was listed on seven (7) renewal reports. The Customer Service Agent license expired on September 13, 2020. The Customer Service Agent did not timely renew the license or request that the license be inactivated. The Customer Service Agent was terminated on January 9, 2021.

COUNT II

13. Chapter 4, Section 2 of the Emergency Rules for Sports Wagering provide 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 (9) An action, event, or nonevent, with respect to which the executive director has instructed the sports wagering operator to provide notice so that the executive director can ensure that the sports wagering operator continues to maintain suitability for licensure.

14. On August 29, 2019, the Commission issued a Change Management Policy Directive to all sports wagering operators and platform providers. All changes to the sports wagering system must comply with this policy. If a change is made to the sports wagering system, an email notification must be sent to the Commission's Sports Wagering Division and approved prior to implementing the changes.
15. On September 17, 2020, the Manager of Regulatory Compliance at Horseshoe Hammond submitted a request to the Commission's Sports Wagering Division to upgrade the Caesars Indiana Sportsbook Platform. The request provided that the upgrade was scheduled for September 23, 2020 with a twelve (12) hour downtime period. The GLI letter and Scientific Games release note was provided as well. The update was to be deployed to the server located at Indiana Grand Casino and then the upgrade would be deployed to the remaining Caesars Sportsbooks which included Indiana Grand, Horseshoe Hammond, Harrah's Hoosier Park, Caesars Southern Indiana, OTB Clarksville, OTB Indianapolis and OTB New Haven. This request was approved on September 18, 2020.
16. On September 24, 2020, the Gaming Agent Supervisor at Indiana Grand notified the Sports Wagering Division that an unapproved update had been deployed to the sports wagering kiosks at Indiana Grand. The Sports Wagering Division subsequently reached out to Caesars' Director of Market Technology and Engineering who was able to confirm that there was an unapproved software update deployed to the sports wagering kiosks at all Caesars properties, approximately eighty-one (81) sports wagering kiosks. Only fifty-two (52) sports wagering kiosks were affected due to social distancing. The Director of Market Technology and Engineering also provided that the update to the kiosks was not contemplated in the Scientific Games release note previously approved by the Commission. The Commission was able to confirm that the software deployed had been certified by GLI and approved by the Commission, however, a release note had not been provided by Scientific Games to the Commission for review and approval.

TERMS AND CONDITIONS

Commission staff alleges that the acts or omissions of NYX by and through its agents as described herein constitute a breach of IC 4-38, 68 IAC and/or the Emergency Rules for Sports Wagering. The Commission and NYX hereby agree to a monetary settlement of the alleged violations described herein in lieu of the Commission pursuing formal disciplinary action against NYX.

NYX shall pay to the Commission a total of \$3,500 (\$2,000 for Count I and \$1,500 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, NYX agrees to promptly remit payment in the amount of \$3,500 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 NYX.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the date and year as set forth below.

Sara Gonso Tait, Executive Director
Indiana Gaming Commission



Stephen Richardson
Senior VP/Chief Compliance Officer
NYX Digital Gaming (USA) LLC

Date

05/10/2021

Date

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Sara Gonso Tait, Executive Director
Indiana Gaming Commission

5/24/21

Date

Stephen Richardson
Senior VP/Chief Compliance Officer
NYX Digital Gaming (USA) LLC

Date