



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF NEW JERSEY RACING COMMISSION
PO Box 088
TRENTON, NJ 08625-0088

MATTHEW J. PLATKIN
Attorney General

PAMELA J. CLYNE
Chairman

MICHAEL J. ARNONE, D.D.S.
LAWRENCE DEMARZO
FRANCIS X. KEEGAN, JR.
CHARLES E. TOMARO
GLEN VETRANO
Commissioners

FINAL DETERMINATION AND ORDER

JUDITH A. NASON
Executive Director

IN THE MATTER OF THE APPLICATION OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY FOR THE RENEWAL OF THE ACCOUNT WAGERING LICENSE FROM JANUARY 1, 2023 THROUGH DECEMBER 31, 2023 AND RELATED MATTERS

WHEREAS, the New Jersey Sports and Exposition Authority ("Authority") filed an application to renew the account wagering license for calendar year 2023, pursuant to the Off-Track and Account Wagering Act, N.J.S.A. 5:5-127 et seq. ("Act") and the Commission's rules at N.J.A.C. 13:74-1.1 et seq., to continue to operate parimutuel wagering on horse races by computer and through an automated telephone system utilizing patron wagering accounts;

WHEREAS, the Authority and other interested industry groups have sought Commission approval for Darby Development, LLC ("Darby") to continue to act as the Authority's agent and continue to manage the day-to-day and business affairs of the account wagering system, for ODS Technologies, L.P. (doing business as "TVG Network") to continue to provide platform services for the account wagering system and for Global Tote US, LLC ("Global"), formerly known as Sportech Racing, LLC, to continue to provide totalisator services in connection with the account wagering system for 2023;

WHEREAS, the Commission considered this matter at its public meeting on November 16, 2022;



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AND THE COMMISSION FINDING THAT the Authority has demonstrated by clear and convincing evidence that account wagers will continue to be accurately processed with sufficient safeguards to maintain integrity, that the renewal will not be inimical to the public interest and horse racing industry and that the account wagering licensee is in substantial compliance with the Act, rules and conditions imposed by the Commission;

AND THE COMMISSION FINDING THAT Darby, TVG Network and Global are qualified to receive renewal licenses for calendar year 2023 subject to the conditions set forth in Schedule A which is attached to this Final Determination and Order and incorporated herein ("Schedule A"):

IT IS THEREFORE ORDERED THAT the Commission approves the renewal of the account wagering license for calendar year 2023 subject to the conditions set forth in Schedule A.

IT IS FURTHER ORDERED THAT the Authority's continued utilization of Darby to manage the account wagering system, the Authority's continued utilization of TVG Network to provide platform services and the Authority's continued utilization of Global to provide totalisator services for the account wagering system for 2023 is approved subject to the conditions set forth in Schedule A.

IT IS FURTHER ORDERED THAT the Commission reserves its right and ability, consistent with its broad regulatory authority, to impose additional conditions with regard to the account wagering system and the approvals set forth in this Final Determination and Order.

IT IS FURTHER ORDERED THAT the Commission delegates authority to the Executive Director to impose additional conditions upon the Authority, Darby, TVG Network and Global as she deems necessary and appropriate during the course of the license renewal year.

IT IS FURTHER ORDERED THAT this Final Determination and Order, to the extent required by law, shall be subject to the review and approval of the Attorney General pursuant to N.J.S.A. 5:5-140 and N.J.A.C. 13:74-3.2(f).

This Order memorializes the actions taken by the Commission on November 16, 2022.

NEW JERSEY RACING COMMISSION

By: Judith A. Nason
Judith A. Nason, Executive Director

Dated: December 6, 2022

Schedule A - Conditions

- 1) The Authority shall ensure that all aspects of the account wagering system, including the application process for account holders, shall be operated consistent with the Act, the Commission's rules, this Final Determination and Order and all other applicable laws.
- 2) Any substantive changes to the account wagering application form which is to be completed by individuals seeking to establish a wagering account shall be submitted to the Commission's Executive Director for approval to ensure that the application continues to comply with the Commission's rules.
- 3) The Authority's internal control procedures concerning the filing of applications by New Jersey residents shall continue to provide that each applicant for a wagering account must first submit a copy of his or her identification credentials which confirm that the applicant is a New Jersey resident and is at least 18 years of age before a wagering account can be opened. Any application filed online by computer shall not be considered complete and no wagering account shall be opened until this documentation of residency and age has been received and confirmed.
- 4) All account wagering applications, including any filed online by computer, shall be processed at the New Jersey location as required by N.J.A.C. 13:74-7.8.
- 5) The Authority and Darby shall ensure that TVG Network does not knowingly accept an account wager from a New Jersey resident account holder where that account holder seeks to place such wager while at a physical location outside New Jersey. The Authority, Darby and TVG Network shall ensure that the account wagering system maintains advanced geo-location software and controls in a manner that is satisfactory to the Commission's Executive Director and take reasonable measures intended to ensure that customers are not using technology to spoof their actual location. The Authority, Darby and TVG Network shall pay the cost of testing the current geo-location capabilities of the account wagering system and shall make all changes and upgrades ordered by the Executive Director.
- 6) The internal control procedures for patron dispute resolution pursuant to N.J.A.C. 13:74-7.16(e) shall continue to be provided to prospective account holders at the time the wagering account is opened as required by N.J.A.C. 13:74-7.1(f).
- 7) The Authority shall continue to comply with the self-exclusion provisions of N.J.A.C. 13:74A-5.1.

- 8) The Authority, its agents and all parties to the account wagering participation agreement shall make timely payment to the Commission of the respective racing costs consistent with N.J.A.C. 13:74-10.1.
- 9) This Final Determination and Order does not authorize the Authority to offer account wagering at, or in connection with, any casino simulcast facility. Any such offering must be preceded by a separate application to, and approval by, the Commission as well as the New Jersey Division of Gaming Enforcement or New Jersey Casino Control Commission, as applicable.
- 10) The Authority shall oversee and manage Darby, which is acting as the Authority's agent, with respect to all account wagering matters, and the Authority shall retain ultimate control and decision-making authority.
- 11) Darby shall immediately notify the Commission in writing through its Executive Director of any significant event or occurrence which could negatively impact the continued operation of any aspect of the account wagering system.
- 12) In the event there is a change in the compensation, either directly or indirectly, to be provided to Darby or to any other person or entity in connection with Darby's management of the account wagering system, Darby shall notify the Commission in writing before entering into any such compensation agreement and before any such compensation is paid.
- 13) Any substantive changes to TVG Network's internal control procedures shall be submitted to the Commission's Executive Director for approval.
- 14) The Authority, Darby and TVG Network shall comply with N.J.A.C. 13:74-7.9 before installing any new or updated equipment or software to be utilized in connection with the account wagering system.
- 15) The Authority, Darby, TVG Network and Global shall cooperate in the resolution of all hardware and software issues, as well as other legitimate issues, which have arisen or may arise in the operation of the account wagering system.
- 16) The Authority, Darby, TVG Network and Global shall make a written submission and file for continued licensure for 2024 no later than October 15, 2023.
- 17) The Authority shall ensure that the current account wagering agreement between Darby and TVG Network, which expires on March 1, 2023, is extended to December 31, 2023 or later and that a copy of the written extension is filed with the Commission on or before March 1, 2023.