

# The Virginia Lottery

In the Matter of VHL, VA LLC (888)

Docket No. 2023-12-02

## **SETTLEMENT AGREEMENT**

Pursuant to Article 2 of Chapter 40 of Title 58.1 of the Code of Virginia (“Va. Code”), § 58.1-4030, *et seq.* (“Sports Betting Law”), and Virginia Administrative Code 11VAC5-70-120H, the Executive Director (“Director”) of the Virginia Lottery (“Lottery”) and VHL, VA LLC (“888”), wish to resolve this matter without a formal administrative hearing. Accordingly, the parties recite the following facts and make the following agreements:

### **BACKGROUND**

The Director and Lottery staff, through regulations adopted by the Virginia Lottery Board (“Board”), regulate the operation of Virginia’s legal sports betting program, and are responsible for authorizing qualified persons to offer legal sports betting within the Commonwealth of Virginia and for ensuring that the operation of sports betting platforms is conducted legally. Va. Code §§ 58.1-4007, 58.1-4031; 11VAC5-70.

If a permit holder or licensee violates a provision of the Sports Betting Law, a regulation promulgated by the Board, or a directive of the Lottery or the Director, the Director is authorized to, after a hearing, take action against the permit holder or licensee that may include suspension or revocation of the sports betting permit or license and levying a civil penalty for each violation. Va. Code § 58.1-4035; 11VAC5-70-120B. The Director may impose these sanctions on a permit holder for violations committed by the permit holder’s principals, suppliers, vendors, or employees. 11VAC5-70-120D. The Director may also

determine that is in the best interest of the Commonwealth of Virginia to reach an agreed-upon settlement with a permit holder or licensee to resolve a violation. 11VAC5-70-120H.

On November 25, 2021, the Director issued a sports betting supplier's license to 888. 888 began accepting wagers in Virginia in May 2022.

In October 2023, it came to the Lottery's attention that 888 may have accepted wagers on Virginia college teams, a violation of Va. Code § 58.1-4039 and Lottery regulation 11VAC5-70-170.A. In a memorandum dated December 4, 2023, the Lottery informed 888 of the Lottery's belief that these facts constituted alleged violations of the Sports Betting Law and the Lottery's related regulations and that these actions were sanctionable. The Lottery specified the violations for which the Director is proposing a settlement amount. 888 has taken corrective measures to ensure future compliance with the Sports Betting Law and its related regulations.

The parties agree to the following terms and conditions as a means of resolving the captioned alleged violations.

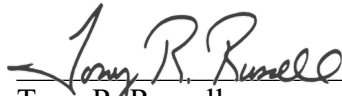
#### **TERMS AND CONDITIONS**

1. This Settlement Agreement is being entered into as a means of settling the alleged violations and avoiding the potential expense and inconvenience of a formal hearing.
2. There has not been a formal finding as to the merits of the allegations. This Settlement Agreement does not constitute an allegation, an admission, or a denial by either party that a violation of law or regulation has occurred.
3. Upon execution of this Settlement Agreement by both parties and no later than 10 days after, 888 shall remit payment of \$15,000 to the Lottery for deposit into the Commonwealth's General Fund.
4. Upon receipt of payment from 888, the Director will close these matters.

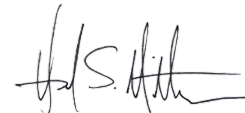
5. 888 will continue to take appropriate measures to ensure future compliance with the Sports Betting Law and its related regulations.
6. If 888 violates a term of this Settlement Agreement, the Director may impose a sanction or penalty on 888 for violating the Agreement or for the underlying violations, or both.
7. By entering into this Settlement Agreement, 888 waives all rights to administrative or judicial review of these alleged violations pursuant to 11VAC5-70-120H.
8. This Settlement Agreement extends only to those alleged violations that were referenced in the Lottery's discussions with 888. If the Lottery subsequently discovers additional facts of a material and substantial nature involving any of those incidents, and said facts constitute additional alleged violations, the Lottery may pursue such additional alleged violations. 888 may dispute such additional alleged violations.
9. This Settlement Agreement constitutes the entire agreement between the parties. No prior or subsequent understandings, agreements, or representations, oral or written, that are not specified or referenced within this document will be valid provisions of this Settlement Agreement.
10. This Settlement Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by the parties.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement as set forth below:

Date: January 10, 2024

  
\_\_\_\_\_  
Tony R. Russell  
Interim Executive Director  
Virginia Lottery

Date: January 9th, 2024

  
\_\_\_\_\_  
Howard Mittman, President  
888 US



**Virginia Lottery | Gaming Compliance | 600 E. Main St. Richmond, VA 23219**

**Gina Smith, Deputy Executive Director of Gaming Compliance | [gsmith@valottery.com](mailto:gsmith@valottery.com) | 804.692.7150**

TO: Laura Burd, US Compliance Director, 888

FROM: Gina M. Smith, Deputy Executive Director of Gaming Compliance

DATE: February 9, 2024

SUBJECT: Regulatory Violation Concerning Failure to Timely Pay an Agreed-Upon Penalty

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I write to notify you of the Lottery's intention to impose civil penalties concerning the failure of VHL, VA LLC (a/k/a 888) to pay civil penalties on a timely basis in accordance with settlement agreement 2023-12-02.

### **Factual Situation**

On January 10, 2024, a settlement agreement between the Lottery and 888 was fully executed. In accordance with this agreement, \$15,000 was to be remitted to the Lottery no later than 10 days after execution, which meant the fine was due on or before January 20, 2024.

On January 22, 2024, 888 reached out to determine where the funds should be wired and stated that the payment would be processed that week. At that time, the Lottery advised that the payment needed to be expedited as it was already past due. 888 advised that they were calculating based on business days and that the request for payment would be elevated.

On January 30, 2024, the Lottery reached out to 888 requesting a status of the payment and indicated that the untimeliness was a sanctionable event. On January 31, 2024, 888 asked its legal team to provide the Lottery with proof of payment. Neither payment nor proof of payment was received, so the Lottery followed up again on February 1 and February 2, 2024. Payment was finally received on February 5, 2024, 16 days late.

### **Regulatory Violations, Imposition of Sanctions, Right of Appeal**

In accordance with 11VAC5-70-120.E.7, the Director may impose sanctions on a permit holder for failure to fully and timely submit a fee as required. Given that the settlement agreement clearly specified the number of days after execution that the penalty was due and the length of time that passed between when the Lottery asked for the payment to be expedited and when it was actually received, the Lottery considers this a sanctionable event.

Under 11VAC5-70-120.B.2, the Director may impose a monetary penalty of up to \$1,000 per day per violation. Under 11VAC5-70-120.G, a permit holder shall be afforded at least 15 days' notice and a hearing before the Board prior to the imposition of a sanction.

In determining the appropriate amount of a monetary penalty to impose for a violation, the Lottery considers, among other things, the seriousness of the violation, the harm that was caused by or potentially could have resulted from the violation, and how the violation was detected. Due to the seriousness of the oversight, the Lottery is recommending a penalty of **\$5,000**.

TO: Laura Burd  
FROM: Gina M. Smith  
DATE: February 9, 2024  
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Finally, under 11VAC5-70-120.H, if the Director determines that it is in the best interests of the Commonwealth of Virginia, the Director may negotiate and reach an agreed-upon settlement of a violation with a permit holder, licensee, or registrant, and the sanctions imposed in that settlement shall not be subject to appeal. A settlement may involve elements of corrective action and may also include a remittance of funds to the Lottery from 888. Should you wish to discuss the potential for a settlement agreement, please let me know within 15 days of the date of this notice. Should you fail to initiate discussions regarding a voluntary settlement agreement within that time, the above recommendation shall be deemed final.

**PAID**