

# The Virginia Lottery

In the Matter of PointsBet USA, Inc.

Docket No. 2023-08-02

## **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 PointsBet USA, Inc. (“PointsBet”) 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 to resolve a violation. 11VAC5-70-120H.

PointsBet is licensed as a sports betting supplier operating on behalf of and pursuant to the authority granted to sports betting permit holder Colonial Downs Group, LLC (“Colonial Downs”). On November 22, 2021, the Director issued Colonial Downs a permit and PointsBet a license to operate a sports betting platform in the Commonwealth. PointsBet’s platform began accepting wagers in Virginia during on December 15, 2021.

On several occasions since its licensure, PointsBet notified the Lottery that PointsBet had improperly accepted wagers on known results or on unauthorized sporting events. In two memoranda dated August 3, 2023, the Lottery informed PointsBet of the Lottery’s concern that these situations allegedly violated the Sports Betting Law and the Lottery’s related regulations. The Lottery specified the violations for which the Director is proposing a settlement amount. The Lottery has asserted that these actions violated the Sports Betting Law and the regulations promulgated thereunder, and that these actions were sanctionable. PointsBet 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, PointsBet shall remit payment of \$21,000 to the Lottery for deposit into the Commonwealth's General Fund.
4. Upon receipt of payment from PointsBet, the Director will close these matters.
5. PointsBet will continue to take appropriate measures to ensure future compliance with the Sports Betting Law and its related regulations.
6. If PointsBet violates a term of this Settlement Agreement, the Director may impose a sanction or penalty on PointsBet for violating the Agreement or for the underlying violations, or both.
7. By entering into this Settlement Agreement, PointsBet 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 PointsBet. 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. PointsBet 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: 08/28/2023



\_\_\_\_\_  
Kelly T. Gee  
Executive Director  
Virginia Lottery

Date: August 28, 2023



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Rachel Kasper  
Chief Legal and Compliance Officer  
PointsBet USA, Inc.