



## NEW YORK STATE GAMING COMMISSION

### STIPULATION OF SETTLEMENT

*NYSGC Case No.: PRPI-IFS-001-2023*

#### A. Incident Information:

**Effective Date of Stipulation: December 31, 2023**

**Dates Included in Stipulations: June 4, 2019 – December 31, 2023**

**NYSGC Case No.: PRPI-IFS-001-2023**

#### B. Entities Affected by Stipulations:

<u>Name</u>	<u>Address</u>
SidePrize LLC d/b/a "Prize Picks" (operating as or through PrizePicks and/or Performance Predictions LLC)	1230 Peachtree Street, NE, Suite 2800, Atlanta, GA 30309

#### C. Statutes Implicated:

Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") §§ 116, 1400(3), 1402(1)(a) and (b), 1404(3)(a), 1405(2) and 1412.

#### D. Summary of Facts:

Pursuant to Racing Law § 104(7), on or about November 22, 2022, the New York State Gaming Commission ("Commission") issued a Subpoena Duces Tecum to Performance Predictions LLC, whether doing business as SidePrize LLC, PrizePicks, PrizePicks & Performance Predictions, or otherwise for the Commission's investigation into the operation of the prizepicks.com website and the iOS and Android applications operated by or on behalf of PrizePicks. In the response provided, it was conceded that Performance Predictions LLC and PrizePicks are under the common control of SidePrize LLC ("PrizePicks").

The Commission has "all powers necessary and proper to fully and effectively execute" Article 14 of the Racing Law and "to initiate proper enforcement proceedings where such action is deemed by the commission to be necessary or appropriate." See Racing Law § 1405(2)(a) and (f). Racing Law section 116 grants the Commission authority to impose civil penalties.

PrizePicks asserts that it operated in New York in a good-faith belief that it had the ability to do so.



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#### **E. Stipulations**

The Commission and PrizePicks agree as follows:

1. PrizePicks operates a website and mobile applications that purport to be interactive fantasy sports within the meaning of Racing Law Article 14 ("IFS"). Such purported IFS offerings are available to New York residents.
2. PrizePicks did not offer IFS in New York before November 10, 2015.
3. PrizePicks does not hold a temporary permit from the Commission to operate IFS in New York.
4. PrizePicks has not been, and is not, authorized to offer IFS in New York pursuant to Article 14 of the Racing Law.
5. PrizePicks has been offering purported IFS in New York since June 4, 2019.
6. PrizePicks cooperated with the Commission's investigation of this matter.
7. None of the actions taken by PrizePicks that are the subject matter of this Stipulation of Settlement disqualifies PrizePicks from consideration of an application for IFS registration.

#### **F. Findings and Remedies:**

1. Assuming PrizePicks's offering are, as it asserts, IFS, PrizePicks has been operating in New York since June 4, 2019 in contravention of Racing Law sections 1402(1)(a) and (b) and 1412.
2. PrizePicks agrees to cease and desist on or before February 14, 2024 any operations and offerings in New York that PrizePicks characterizes as IFS and provide proof to the Commission of such cessation and desistance.
3. After an opportunity to be heard by the Commission, PrizePicks agrees to the terms of this Stipulation of Settlement and waived its right to contest any part of this Stipulation. PrizePicks agrees to pay a settlement amount of \$14,969,688 in the aggregate, based on the revenue PrizePicks generated through purported IFS contests from New York contestants for the period of June 4, 2019 through November 3, 2023, estimated revenue PrizePicks generated from November 4, 2023 through December 31, 2023 and the number of days PrizePicks offered purported IFS contests



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to New York contestants for the period of June 4, 2019 through December 31, 2023, in contravention of Article 14 of the Racing Law, accepting only for purposes of this Stipulation of Settlement PrizePicks's assertion that its offerings were IFS contests.

PrizePicks shall remit the settlement amount of (\$14,969,688) to the New York State Gaming Commission on or before March 1, 2024. [REDACTED]

[REDACTED]. Payments not made timely will be subject to interest and collection fees pursuant to New York State's State Finance Law § 18.

The Commission and PrizePicks also hereby agree to the following conditions:

1. PrizePicks and the Commission acknowledge that each has had an opportunity to retain an attorney to review the terms and conditions of this Stipulation of Settlement. No provision hereof shall be interpreted against the interests of one party solely because such provision was drafted by such party or by the attorney for such party.
2. PrizePicks waives any right it has to bring a judicial challenge to any of the actions of the Commission, its members, agents, or employees, with respect to the matters set forth in this Stipulation of Settlement, in any state or federal court or other forum.
3. PrizePicks has authorized the individual identified below, to execute this Stipulation of Settlement on behalf of PrizePicks, representing PrizePicks's agreement with the terms herein.
4. Nothing in this Stipulation of Settlement shall prevent PrizePicks from applying for registration or licensure by the Commission.
5. This Stipulation of Settlement may be executed in counterparts, each of which shall be deemed an original. Executed copies of this Stipulation of Settlement may be sent by facsimile (fax) or as PDF copies sent by email, and any signatures thereon shall be considered for all purposes to be binding as originals.
6. If any term of this Stipulation of Settlement is declared by a court of competent jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Stipulation of Settlement did not contain that term.



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7. This Stipulation of Settlement represents the full, final and complete agreement between PrizePicks and the Commission and the resolution of the issues outlined herein for the dates set forth in section A, *supra*.

**SidePrize LLC d/b/a "Prize Picks"**

By: <sup>DocuSigned by:</sup> Adam Wexler

Name: Adam Wexler

Title: CEO

Date: 2/5/2024

**New York State Gaming Commission**

By: [Signature]

Name: Robert Williams

Title: EXECUTIVE DIRECTOR

Date: 5 February 2024