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ATTORNEY GENERAL OF NEW JERSEY
Division of Law
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FILED

AUG 16 2019

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

SPORTSHUB GAMES NETWORK, INC.
f/k/a SPORTSHUB TECHNOLOGIES,
LLC d/b/a FANBALL d/b/a
LEAGUESAFE d/b/a MFL10S d/b/a
NATIONAL FANTASY FOOTBALL
CHAMPIONSHIPS d/b/a NATIONAL
FANTASY BASEBALL
CHAMPIONSHIPS d/b/a NATIONAL
FANTASY BASKETBALL
CHAMPIONSHIPS d/b/a CDM SPORTS
d/b/a WHATIF SPORTS,

Administrative Action

CONSENT ORDER

Respondent.

WHEREAS this matter was opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”), as an investigation into SportsHub Games Network, Inc. f/k/a SportsHub Technologies, LLC d/b/a Fanball d/b/a Leaguesafe d/b/a MFL10s d/b/a National Fantasy Football Championships d/b/a National Fantasy Baseball Championships d/b/a

National Fantasy Basketball Championships d/b/a CDM Sports d/b/a WhatIf Sports, with a main business address of 323 N. Washington Avenue, Suite 320, Minneapolis, Minnesota 55401, as well as its owners, officers, directors, shareholders, founders, managers, members, agents, servants, employees, representatives, attorneys, corporations, subsidiaries and/or affiliates (collectively, "SportsHub") upon receipt of an application from SportsHub for the issuance of a permit to conduct Fantasy Sports Activities pursuant to the Fantasy Sports Act, N.J.S.A. 5:20-1 et seq. ("FSA"), and to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), have been or are being committed by SportsHub (hereinafter referred to as the "Investigation");

WHEREAS SportsHub conducted Fantasy Sports Activities prior to securing a permit with the Division since at least February 6, 2018, and thus, unlawfully engaged in Fantasy Sports Activities in New Jersey;

WHEREAS the Division alleges that SportsHub committed multiple misrepresentations on the SportsHub Websites;

WHEREAS the Division and SportsHub (collectively, "Parties") have reached an amicable agreement resolving the issues in controversy and concluding the Investigation without the need for further action, and SportsHub having voluntarily cooperated with the Investigation and consented to the entry of the within order ("Consent Order"), and for good cause shown:

IT IS ORDERED and **AGREED** as follows:

1. EFFECTIVE DATE

1.1 This Consent Order is effective on the date that it is filed with the Division ("Effective Date").

2. DEFINITIONS

As used in this Consent Order, the following words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

2.1 “Advertisement” shall be defined in accordance with N.J.S.A. 56:8-1(a), for purposes of the CFA. This definition applies to other forms of the word “Advertisement,” such as “Advertise” and “Advertised.”

2.2 “Attorney General” shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.3 “Clear and Conspicuous” or “Clearly and Conspicuously” shall mean a statement that, regardless of the medium in which it is made, is presented in such size, color, contrast, duration, location and audibility, compared to the other information with which it is presented, that it is readily apparent and understandable and in language and in terms used in accordance with their common or ordinary usage and meaning. If such statement modifies, explains or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, explains or clarifies in a manner that is readily apparent and understandable.

2.5 “Consumer” shall refer to any Person who is offered Merchandise for Sale.

2.6 “Fantasy Sports Activities” shall be defined in accordance with N.J.S.A. 5:20-2.

2.7 “Fantasy Sports Operator” shall be defined in accordance with N.J.S.A. 5:20-2.

2.8 “Include” and “Including” shall be construed as broadly as possible and shall mean “without limitation.”

2.9 “Merchandise” shall be defined in accordance with N.J.S.A. 56:8-1(c), and Includes Fantasy Sports Activities.

2.10 “New Jersey” and “State” shall refer to the State of New Jersey.

2.11 “Person(s)” shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.12 “Sale” shall be defined in accordance with N.J.S.A. 56:8-1(e). This definition applies to other forms of the word “Sale,” such as “Sell” and “Sold.”

2.13 “SportsHub Website(s)” shall refer to the website located at www.shgn.com, as well as any other website maintained by or on behalf of SportsHub, including www.sportshubtech.com, www.fanball.net, www.fanball.com, www.draftandplay.com, www.cdmfantasysports.com, www.cdmsports.com, www.therototimes.com, www.rototimes.com, www.leaguesafe.com, and www.whatifsports.com.

3. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Permit to Conduct Fantasy Sports Activities

3.1 Pursuant to the FSA, Fantasy Sports Operators conducting Fantasy Sports Activities in New Jersey must hold a permit issued by the Division. In particular, Fantasy Sports Operators who were conducting business on or before August 24, 2017, the enactment date of the FSA, were specifically authorized to continue to lawfully operate in New Jersey through February 6, 2018.

3.2 Any Fantasy Sports Operators who were conducting business prior to August 24, 2017, but failed to apply for a permit from the Division by the February 6, 2018 deadline, were required to cease operations by February 6, 2018.

3.3 Despite its failure to file an application for a permit by February 6, 2018, SportsHub continued to conduct Fantasy Sports Activities in New Jersey after February 6, 2018.

3.4 SportsHub ultimately applied to the Division for a permit to conduct Fantasy Sports Activities on September 18, 2018.

3.5 Therefore, the Division finds that SportsHub unlawfully engaged in Fantasy Sports Activities in New Jersey after February 6, 2018, without holding a permit to do so, or without having timely submitted an application for the issuance of a permit, in violation of the FSA.

3.6 Notwithstanding these findings, the Division is satisfied, upon consideration of SportsHub's application and good-faith cooperation with the Division's Investigation into SportsHub's conduct, that good cause exists to grant SportsHub's application for an issuance of a permit to conduct Fantasy Sports Activities in New Jersey, expressly subject to SportsHub's compliance with the terms and conditions set forth in Section 4 below.

SportsHub's Business Practices

3.7 On a SportsHub Website, specifically www.leaguesafe.com, SportsHub Advertised itself as "the only fantasy sports consumer protection agency on Earth."

3.8 SportsHub maintains two different versions of its Privacy Policy and Terms and Conditions for www.leaguesafe.com.

3.9 SportsHub failed to Clearly and Conspicuously disclose to Consumers in its Privacy Policy and/or Terms and Conditions: (i) that SportsHub collects information from Consumers' social networking accounts, including names, user IDs, images, email addresses, dates of birth, friend lists, school names and other public profile information (collectively,

“Personal Information”); (ii) that SportsHub shares certain Personal Information with third parties; (iii) how Consumers may opt-out from providing their Personal Information to third parties and/or for use in research studies; (iv) that SportsHub limits Consumers’ rights by requiring Consumers to bring any claims or causes of action against SportsHub through binding arbitration only, thus forfeiting the right to bring any claims or causes of action before a court, and to waive class action rights; and (v) does not issue refunds to Consumers.

3.10 SportsHub failed to Clearly and Conspicuously state whether it sells, rents to or shares with third parties Consumers’ Personal Information for marketing purposes without prior consent from the Consumer (e.g., SportsHub states in its Privacy Policy that it “generally does not sell, rent or share participants’ Personal Information to third parties for their marketing purposes without participants’ consent”).

3.11 SportsHub made it confusing for Consumers to determine which Privacy Policy and/or Terms and Conditions they had agreed to when accessing a SportsHub Website (e.g., a Consumer signs up for fantasy sports on www.fanball.com, but when a Consumer wishes to view the Terms and Conditions, SportsHub directs the Consumers to the SportsHub Terms and Conditions using a www.leaguesafe.com address, even though www.fanball.com has its own specific Terms and Conditions).

4. REQUIRED AND PROHIBITED BUSINESS PRACTICES

4.1 SportsHub shall not engage in any unfair or deceptive acts or practices in the conduct of any business in New Jersey and shall comply with such State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended, Including the FSA and the CFA.

4.2 SportsHub shall not conduct Fantasy Sports Activities unless it obtained a permit from the Division, pursuant to N.J.S.A. 5:20-2(b).

4.3 SportsHub shall not Advertise that it is “the only fantasy sports consumer protection agency on Earth,” or make other similar representations.

4.4 SportsHub shall maintain separate and distinct Privacy Policies and Terms and Conditions for each of its SportsHub Websites.

4.5 SportsHub shall Clearly and Conspicuously disclose to Consumers in each of its Privacy Policies and/or Terms and Conditions for each of its SportsHub Websites whether SportsHub: (i) collects Personal Information from Consumers’ social networking accounts; (ii) shares certain Personal Information with third parties; and (iii) does not issue refunds to Consumers.

4.6 SportsHub shall Clearly and Conspicuously disclose to Consumers in each of its Privacy Policies and/or Terms and Conditions where, on its SportsHub Websites, Consumers may opt-out from providing their Personal Information to third parties and/or have their Personal Information used in research studies.

4.7 SportsHub shall revise its Privacy Policies and Terms and Conditions to require that Consumers affirmatively opt-in if they agree to arbitration and to waive their right to participate in a class action.

4.8 SportsHub shall not sell, rent or share Personal Information to third parties for marketing purposes without the prior affirmative consent of the Consumer.

4.9 SportsHub shall not represent that they “generally” (or words to that effect) do not sell, rent or share Personal Information to third parties if, in fact, they do sell, rent or share

Personal Information to third parties.

4.10 SportsHub shall maintain consistent and uniform references on its SportsHub Websites without confusing cross-references which would make a reasonable Consumer believe that they are on another SportsHub Websites (e.g., when a Consumer visits www.fanball.com and clicks on the Privacy Policy or Terms and Conditions, the Consumer should not be redirected to a different SportsHub Website).

4.11 SportsHub shall make the revisions outlined in Sections 4.3 through 4.10 within thirty (30) days of the Effective Date.

5. SETTLEMENT AMOUNT

5.1 The Parties have agreed to a settlement of the Investigation in the amount of Thirty Thousand and 00/100 Dollars (\$30,000.00) (“Settlement Amount”), pursuant to N.J.S.A. 5:20-2(h), and paid in the manner described below.

5.2 Fifteen Thousand and 00/100 Dollars (\$15,000.00) of the Settlement Amount shall be made contemporaneously with the signing of this Consent Order. Thereafter, SportsHub shall remit the Settlement Amount in the following manner:

- (a) On or before September 1, 2019, SportsHub shall pay Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00); and
- (b) On or before January 1, 2020, SportsHub shall pay Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00).

5.3 SportsHub shall pay the Settlement Amount by certified check, cashier’s check, money order, credit card or wire transfer payable to the “New Jersey Division of Consumer Affairs” and forwarded to:

Case Initiation & Tracking Unit
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101
Attention: Van Mallett, Lead Investigator

5.4 Upon making each payment of the Settlement Amount, SportsHub shall immediately be fully divested of any interest in, or ownership of, the moneys paid. All interest in the moneys, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

5.5 In the event that SportsHub fails to comply with Sections 5.2 and/or 5.3, the outstanding portion of the Settlement Amount shall be immediately due and payable to the Division and the Division may file a Certificate of Debt for any unpaid portion of the Settlement Amount.

6. GENERAL PROVISIONS

6.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

6.2 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of New Jersey.

6.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

6.4 This Consent Order contains the entire agreement among the Parties. Except as

otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

6.5 Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of New Jersey or the people of New Jersey.

6.6 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

6.7 This Consent Order shall be binding upon SportsHub as well as its successors and assigns and any entity or device through which they may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct its business.

6.8 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

6.9 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall be construed as: (a) an approval, sanction or authorization by the Attorney General, the Division or any other governmental unit of the State of any act or practice of SportsHub; or (b) an admission by SportsHub that any of its acts or practices described in or prohibited by this Consent Order violate the FSA or the CFA.

6.10 Unless otherwise prohibited by law, any signatures by the Parties required for filing of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

6.11 This Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

7. REPRESENTATIONS AND WARRANTIES

7.1 The Parties represent and warrant that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that the representative has done so with authority to act for and legally bind the respective Party.

7.2 SportsHub represents and warrants that they have fully read and understand this Consent Order, the legal consequences involved in signing the Consent Order, and that there are no other representations or agreements not stated in writing herein.

7.3 SportsHub represents and warrants that it has been advised by the Division to seek legal counsel to review this Consent Order and that it has voluntarily chosen not to do so.

8. RELEASE

8.1 In consideration of the payments, undertakings, mutual promises and obligations provided for in this Consent Order and conditioned on SportsHub paying the Settlement Amount in the manner specified in Section 5, the Division hereby agrees to release SportsHub from any and all civil claims or Consumer-related administrative claims, to the extent permitted by New Jersey law, which the Division could have brought prior to the Effective Date against SportsHub for violations of the FSA and the CFA arising out of the Investigation, as well as the matters specifically addressed in this Consent Order (“Released Claims”).

8.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action; (b) actions to enforce this Consent Order; and (c) any claims against SportsHub by any other agency or subdivision of the State.

9. PENALTIES FOR FAILURE TO COMPLY

9.1 The Attorney General (or designated representative) shall have the authority to enforce the provisions of this Consent Order or to seek sanctions for violations hereof or both.

9.2 The Parties agree that any future violations of the provisions of this Consent Order, the FSA and/or the CFA shall constitute a second or succeeding violation under N.J.S.A. 56:8-13 and that SportsHub may be liable for enhanced civil penalties.

10. COMPLIANCE WITH ALL LAWS

10.1 Except as provided in this Consent Order, no provision herein shall be construed as:

- (a) Relieving SportsHub of its obligation to comply with all New Jersey and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- (b) Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from SportsHub pursuant to any New Jersey or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right SportsHub may otherwise have pursuant to any New Jersey or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

11. NOTICES UNDER THIS CONSENT ORDER

11.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or SportsHub pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Robert N. Holup, Deputy Attorney General
Consumer Fraud Prosecution Section
State of New Jersey
Department of Law and Public Safety
Division of Law
124 Halsey Street – 5th Floor
Newark, New Jersey 07101

For SportsHub:

Robert Phythian, CEO
SportsHub Games Network, Inc.
323 N. Washington Avenue
Suite 320
Minneapolis, Minnesota 55401

IT IS ON THE 16 DAY OF August, 2019 SO
ORDERED.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
PAUL R. RODRIGUEZ, ACTING DIRECTOR
DIVISION OF CONSUMER AFFAIRS

**THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS
CONSENT ORDER ON THE DATES BESIDE THEIR RESPECTIVE SIGNATURES.**

FOR THE DIVISION:

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Robert N. Holup
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: August 16, 2019

124 Halsey Street -- 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

FOR SPORTSHUB:

SPORTSHUB GAMES NETWORK, INC. f/k/a SPORTSHUB TECHNOLOGIES, LLC d/b/a
FANBALL d/b/a LEAGUESAFE d/b/a MFL10S d/b/a NATIONAL FANTASY FOOTBALL
CHAMPIONSHIPS d/b/a NATIONAL FANTASY BASEBALL CHAMPIONSHIPS d/b/a
NATIONAL FANTASY BASKETBALL CHAMPIONSHIPS d/b/a CDM SPORTS d/b/a
WHATIF SPORTS

By: 
Robert Phythian, CEO

Dated: 8/13/19, 2019

323 N. Washington Avenue
Suite 320
Minneapolis, Minnesota 55401



SportsHub Games Network

323 Washington Ave N, Suite 320
Minneapolis, MN 55401

PLATINUM BANK
7667 TENTH STREET NORTH
OAKDALE, MINNESOTA 55128
75-1767/960



8/13/2019

PAY TO THE ORDER OF New Jersey Division of Consumer Affairs

\$ **15,000.00

Fifteen Thousand and 00/100 ***** DOLLARS

Cas. Initiation & Tracking Unit
New Jersey Dept of Law & Public Safety
Division of Consumer Affairs
124 Halsey St
Newark, NJ 07101



Robert C. Pugh

AUTHORIZED SIGNATURE

MEMO Consent Order First Payment

⑈007337⑈ ⑈096017670⑈ 111245⑈

Security features. Details on back.