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January 22, 2016

Attorney General Maura Healey
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

RE: Comments on Proposed Daily Fantasy Sports Regulations 940 CMR 34.00 et seq.

VIA: Email to DFSRegs@state.ma.us.

Dear Attorney General Healey:

I am writing to provide my comments on the proposed consumer protection regulation of Daily Fantasy Sports (DFS) promulgated by your office (940 C.M.R. 34.00 et seq.). Please accept my written comments below on three areas of consumer protection that warrant inclusion in these proposed regulations.

First, Daily Fantasy Sports Operators (DFSOs) should be subject to bonding requirements for the protection of consumer funds. 940 C.M.R. 34.05 (*proposed*) addresses unauthorized withdrawals and prohibits comingling of client and operator funds but lacks financial safeguards in the event that a customer's money is mishandled. Since the consumer funds will be held in trust by the DFSO pursuant to 34.05(2) (*proposed*), there should be a bonding requirement to ensure that funds are available to the consumer if that fiduciary duty is breached.

Second, any DFS owners, management, and employees should be subject to background checks and criminal history restrictions similar to those required of gaming license applicants pursuant to M.G.L. c. 23K. Requiring background checks on DFSOs and their employees would add significant protection to Massachusetts consumers in the interest of transparency. Just as "Know Your Customer" has emerged as a central issue with DFS regulation, those same customers should have the opportunity to know that their preferred DFSO has passed a certain level of background screening.

Lastly, a prohibition should be in place against any DFS ownership interests by two groups who have an unfair level of access and control over athlete information and participation in the underlying sporting events. The regulations should prohibit from DFS ownership all owners and employees of the sports teams whose athletes compete in the underlying competitions. The owners of the sports teams, and their employees, have access to non-public information and have the ability to control which athletes participate in a given sporting event and which do not. Player injuries, transactions, and contracts are all under the control of these owners or their employees so they should not have any interest in DFS ownership or operations.

Furthermore, members of the media, including their individual owners, ownership entities, and affiliates, should be prohibited from participating in DFS contests and precluded from owning any interest in DFSOs. The highly individualized nature of DFS makes reporting on certain athletes extremely important to DFS participants. Media entities and their employees can exert considerable influence through this selective dissemination of information. Therefore, media entities and their employees should be prohibited from participating in DFS contests and precluded from any ownership interest in DFSOs.

Thank you for this opportunity to comment on these proposed regulations.

Very truly yours,

John V. Fernandes
State Representative
10th Worcester District

Cc: Hon. Robert A. DeLeo, Speaker, Massachusetts House of Representatives