

STATE OF MAINE  
CUMBERLAND, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. PORSC-AP-25-04

FIRST TRACKS INVESTMENTS, LLC, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 MILTON CHAMPION, in his official )  
 Capacity as Director of the Maine )  
 Gambling Control Unit, et. al. )  
 )  
 Respondents )

**MOTION FOR EX PARTE TEMPORARY RESTRAINING ORDER**  
(Expedited Hearing)

NOW comes Petitioner First Tracks Investments, LLC ("FTI"), by and through its undersigned counsel, and moves this Court for a Temporary Restraining Order ("TRO") pursuant to M. R. Civ. P. 65(a) of the Decision of the Director dated January 17, 2025.<sup>1</sup> FTI notes that grant of the TRO does nothing more than preserve the status quo which has existed since late August 2024.

2/4/25 The motion is denied due to its  
ex parte nature. clerk to set  
1/2 hearing this week Ito  
Entered on the Docket: 2/4/25

<sup>1</sup> FTI initially filed a Motion for Temporary Restraining Order January 22, 2025. The Motion was denied on procedural grounds prior to any opposition being filed. FTI, now renews its Motion, both requesting *ex parte* relief pursuant to Rule 65, but also demonstrating service as required under 5 M.R.S.A. § 11003. See attached Exhibit A.

## STATEMENT OF FACTS

Pursuant to M. R. Civ. P. 65(a), FTI notes the following facts shown through the Verified Complaint (previously filed) and the supporting Affidavit attached hereto as Exhibit B evidencing the “immediate and irreparable injury, loss, or damage” faced by FTI.<sup>2</sup>

1. The Maine Gambling Control Unit issued FTI a facility sports wagering license on or about August 31, 2024.
2. FTI made numerous investments, hired staff, contracted for services, and commenced wagering activities in September 2024.
3. Sports wagering revenue is generated at higher levels during marquee events, including National Football League playoff games. NFL Conference Championship games are scheduled for January 26, 2025 and the Super Bowl is scheduled for February 9, 2025. If FTI is unable to accept wagers on these events, there is no possibility for FTI to recoup the loss in the event FTI prevails in this matter.
4. Additionally, as of Sunday, January 19, 2025, more than \$50,000 in open wagers – representing wagers placed by members of the public on future events which had not yet occurred – placed with FTI are pending settlement. If those wagers are terminated, the members of the public who placed the wagers would likely be unable to replace those wagers with online wagering operators, as odds have likely shifted from the time they originally placed the wager.

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<sup>2</sup> Capitalized terms have the same meaning as in the Verified Complaint.

5. Excepting the Decision and its conclusion on eligibility, FTI has not received any notice from the Director that it violated any substantive rules or laws governing sports wagering established for the protection of the public.
6. The Decision is based strictly on a reversal of an interpretation of the statutory language governing FTI's license and not based on any other compliance issues.

### **ARGUMENT**

In order to prevail on a motion for temporary restraining order or preliminary injunction...

The moving party must demonstrate (1) it will suffer irreparable injury if the injunction is not granted; (2) such injury outweighs any harm which granting the injunctive relief would inflict on the other party; (3) it has a likelihood of success on the merits (at most, a probability; at least, a substantial possibility); and (4) the public interest will not be adversely affected by granting the injunction.

*Bangor Historic Track, Inc. v. Dep't of Agric*, 2003 ME 140, ¶ 9, 837 A.2d 129. Furthermore, Rule 65(a) also provides that, "[A] temporary restraining order maybe granted without written oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicants attorney certifies to the court in writing the efforts, if any, which have been made to give notice..."

### ***Notice***

While this Motion is being filed *ex parte*, undersigned counsel hereby certifies that the original Complaint, Motion and Exhibits were all served pursuant to 5 M.R.S.A. § 11003. See attached Exhibit A. This renewed Motion is also being served via email and certified mail on the

Respondents, however, based on the arguments below, there is ample justification for granting FTT's Motion on an interim basis, maintaining the status quo, as the State and the public are in no different of a position than it was a few weeks ago, when FTT was operating under the temporary license.

### ***Irreparable Injury***

The impact of the Gambling Control Unit's Decision (a copy of the Decision is attached hereto as Exhibit C) has effectively halted FTT's business, jeopardizing its workers and significant loss of revenue with each passing day, and not even taking into account the significant investment made by FTT based on the agencies original determination to grant a conditional license.

### ***Balance of Harms***

As already indicated, FTT was operating under a provisional license. Maintaining the status quo does not impact the agency in any way. FTT will continue to remit its monthly taxes to fund the Gambling Control Unit's operations as well as the other important causes which sports wagering taxes support. Sports wagering – and time spent regulating it – will continue in Maine irrespective of the Decision, given the online wagers accepted by the four federally recognized Indian Tribes. Therefore, there is no material harm created by maintaining the status quo through issuance of a stay.

### ***Likelihood of Success***

The Decision ignores several core Maine canons of statutory interpretation. "The fundamental rule in statutory construction is that words must be given their plain

meaning.” *Paradis v. Webber Hospital*, 409 A.2d 672, 675 (1979). ““If the meaning of this language is plain, we must interpret the statute to mean exactly what it says.”” *Ro-we v. Chapman Trucking*, 629 A.2d 1224, 1226 (Me.1993) (quoting *Concord Gen. Mut. Ins. Co. v. Patrons Oxford Mut. Ins. Co.*, 411 A.2d 1017, 1020 (Me.1980)). Further, the Decision ignored both the canon against surplusage and the canon of *expressio unius est exclusion alterius*, not even acknowledging their existence.

Under the plain language of the sports wagering statute, the Decision is in error. And, where the Director already legally determined FTI was eligible, he is equitably estopped from issuing the Decision based on nothing but a new legal theory/interpretation. At the very least, there is a substantial possibility that the Decision is in error, and the gravity of the irreparable injury faced by FTI supports the issuance of a stay. *Emerson*, 563 A.2d at 768.

**(a) FTI is an eligible applicant**

8 M.R.S. §1206(2) identifies persons who are eligible to apply for a sports wagering facility license. (“To be eligible to receive a facility sports wagering license, an **applicant** must be...””) (emphasis added). FTI is eligible to be an **applicant** pursuant to 8 M.R.S. §1206(2)(A) since it is a “commercial track ... not located in Bangor.” This is undisputed. In fact, when the Director issued the License in the first instance, he was required by law to confirm FTI's qualification. See 8 M.R.S. §1206(6) (“If the director determines that the applicant is qualified under subsection 2,” he may issue a temporary license). The Decision provides no explanation for the Director's sudden recanting of his prior determination. See *infra* Sec. 4(e).

The Decision states “Oddfellahs is not a commercial track facility as defined by Section 275-A.” *Decision at 2*. This is legal error for two reasons. First, “commercial track facility” is not a defined term under either the sports wagering or harness racing statutes. “Commercial track” is a defined term, and, as noted *supra*, the Director already confirmed FTI is such a track. Second, “Oddfellahs” is simply an assumed name of FTI adopted through appropriate filings with the Maine Secretary of State. The Decision errs as a matter of law to the extent it attempts to legally distinguish “FTI” from “Oddfellahs” -- they are one-and-the-same. 31 M.R.S. §1510.

For these reasons, to the extent that the Decision holds that FTI d/b/a Oddfellahs is not an eligible **applicant** under 8 M.R.S. §1206(2), it is legal error under the undisputed facts. This error supports a stay.

**(b) The Decision confuses "facilities" and "applicants"**

The Decision states “Oddfellahs is not one of the listed **facility** types listed in 1206(2).” *Decision at 2* (emphasis added). As noted *supra*, 8 M.R.S. §1206(2) does not govern facilities; it governs eligible applicants. FTI is an eligible applicant under that portion of the statute.

It is 8 M.R.S. §1206(3) which governs sports wagering locations. “A facility sports wagering license granted by the director pursuant to this section grants a licensee lawful authority to conduct sports wagering in which wagers are placed within a **physical location controlled by the licensee** in the State ...” *Id.* (emphasis added). It is undisputed that 55 Market Street in Portland is “a physical location.” It is undisputed that 55 Market Street in

Portland is “controlled by” FTJ, the licensee. The Decision appears to ignore these undisputed facts and the plain language of the statute.

The Decision states facility sports wagering “licensees [sic] granted to these facilities” described in 8 M.R.S. §1206(2) “authorizes sports wagering at those facilities only.” *Decision at* 2. But that is not what the statute provides; licenses are provided to **applicants**. Once an applicant becomes a licensee, they are permitted “to conduct sports wagering in which wagers are placed within a physical location controlled by the licensee in the State” subject to applicable rules. 8 M.R.S. §1206(3); *see also* 8 M.R.S. §1202(7)(A) (A facility license allows the licensee “to conduct sports wagering in which wagers are placed within a physical location in this State.”)

The Decision does not apply the undisputed facts to the plain language of the statute, instead opting for a novel interpretation limiting the statute beyond the language the Legislature intentionally chose.<sup>3</sup> Additionally, nowhere in the rules adopted by the Gambling Control Unit does this strict “existing locations only” limit exist. Its first appearance in Maine law is the Decision.

For all these reasons, the Decision’s failure to apply the plain language of the statute supports FTJ's request for a stay.

**(c) The Decision’s construction of the statute violates the canon against surplusage.**

The Decision's interpretation of the law also violates the canon against surplusage.

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<sup>3</sup> If the Legislature wanted to limit locations to existing facilities, it could have easily said “within the licensee’s physical location described in subsection 2” instead of “within a physical location controlled by the licensee in the State.” It did not.

“Nothing in a statute may be treated as surplusage if a reasonable construction supplying meaning and force is otherwise possible.” *Labbe v. Nissen Corp.*, 404 A.2d 564,567 (Me. 1979); *see also Home Builders Ass’n v. Town of Eliot*, 2000 ME 82, ¶8, 750 A.2d 566 (“Surplusage occurs when a construction of one provision of a statute renders another provision unnecessary or without meaning or force.”).

The sports wagering statute restricts each **off-track betting facility** (“OTB”) to a single sports wagering facility license. 8 M.R.S. §1206(2) (“Each off-track betting facility may receive only one facility sports wagering license under this section.”) (the “OTB Provision”). This provision of law is surplusage under the Decision, as the Director’s interpretation means that every eligible applicant under 8 M.R.S. §1206(2) is restricted to a single license since they may only operate within pre-existing facilities. *Decision at 2* (licenses “granted to [tracks, casinos, and OTBs] authorizes sports wagering at those facilities only.”). There is no explanation in the Decision on how the Director addressed this core<sup>4</sup> statutory canon when there is a construction of the statute - put forward by FTI - which renders the OTB Provision meaningful instead of surplusage. Once again, this is legal error and supports the grant of a stay.

**(d) If the statute is ambiguous, legislative history support FTI on the merits**

While it is unclear whether the Director determined the sports wagering statute is ambiguous, assuming *arguendo* he did, legislative history surrounding gaming further

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<sup>4</sup> The Decision also violates the statutory canon of “expressio unius est exclusion alterius”, which is regarded as “well recognized in Maine.” *Lee v. Massie*, 447 A.2d 65, 68 (Me 1982)(internal citation omitted). Why did the Legislature **remove** casinos and commercial tracks from the “single license only” OTB Provision? Compare LD 1352 (130th Legis. 2022) with LD 585 (130<sup>th</sup> Legis. 2022). The Decision has no answer.



undermines the Decision. One example arises in the historic structure of gaming statutes. Maine's original slots law authorizing commercial tracks to open slot facilities also split the questions of "eligibility" and "location." *See* P.L. 2003, ch. 687, §A-5.

The original slot law authorized regulators to "accept applications for a license to operate slot machines from any person who is licensed to operate a commercial track" subject to certain qualifications. *Id.* The location where an applicant could operate, upon issuance of a license, was a separate question: "A slot machine operator license authorizes a licensee to own or lease slot machines operated at a licensed gambling facility." *Id.* This is the exact same model as the sports wagering law, with questions about "applicant eligibility" separate from authorized "locations" from which the eligible applicant can operate upon receipt of a license. *See supra* Sec. 4(b). Again, in assessing the legal error in the Decision, all of these provisions - and others - support FTI's position on the merits and counsels in support of a stay.

**(e) The Director is equitably estopped from changing his mind on eligibility**

It is undisputed that, as a matter of law, the Director was legally required to determine that FTI was eligible to receive a license for its 55 Market Street location prior to issuance of the License. *See* 8 M.R.S. §1206(6) ("If the director determines that the applicant is qualified under subsection 2," he may issue a temporary license). This gives rise to a claim for equitable estoppel from FTI. "To prove equitable estoppel against a governmental entity, the party asserting it must demonstrate that (1) the governmental official or agency made misrepresentations, whether by misleading statements, conduct, or silence, that induced the party to act; (2) the party relied on the government's misrepresentations to his or her detriment; and (3) the party's reliance was reasonable." *State v. Brown*, 2014 ME 79, ¶14, 95 A.2d 82 (citations omitted).

In this case, (1) the Director made a representation concerning FTI's eligibility by issuing the License, (2) FTI relied on that representation to make investments, hire staff, contract for services, and the like, and (3) it is reasonable for FTI to accept the Director's issuance of the License at face value. If there was an eligibility question, it should have been considered and addressed prior to the issuance of the License. Accordingly, FTI has a strong claim for equitable estoppel irrespective of the strong statutory claims, which all supports the grant of a stay.

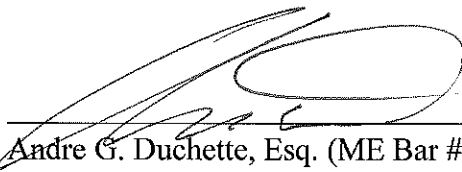
***Public Interest***

The issuance of a TRO will not harm the public. In fact, the issuance of a stay will prevent any issues with the wages currently placed by members of the public that have not yet paid out (i.e. wages placed on events that have not yet been played). The public's interest is best served by FTI's procedural due process rights being protected.

For these reasons, the Court should act without delay to preserve the status quo and provide FTI and the Commissioner alike with sufficient time to respond to the Decision in an orderly manner and pursue the Appeal. FTI suggests that the TRO should remain in place and a preliminary injunction pursuant to M. R. Civ. P. 65(b) or stay under 5 M.R.S. §11004 should follow thereafter, after appropriate notice and hearing. A draft Order is enclosed.

Dated: January 31, 2025

Respectfully Submitted,



Andre G. Duchette, Esq. (ME Bar #9872)  
Attorney for First Tracks Investments, LLC  
267 Commercial Street  
Portland, ME 04101  
(207)828-2005  
[aduchette@tmfattorneys.com](mailto:aduchette@tmfattorneys.com)

**NOTICE:** *This motion is filed under Rule 7(b) of the Maine Rules of Civil Procedure. Unless another time for filing responsive pleadings in opposition to this motion is provided by these Rules or set by the court, notice is hereby given pursuant to Rule 7(c) that a statement opposing this motion must be filed no later than twenty one days after the filing of this motion. Failure to file a timely opposition will be deemed a waiver of all objections to the within motion which may then be granted without further notice or hearing.*

### **CERTIFICATE OF SERVICE**

The undersigned represents that he has served a copy of the enclosed motion via electronic mail to the following addresses: [attorney.general@maine.gov](mailto:attorney.general@maine.gov), [Michael.Sauschuck@maine.gov](mailto:Michael.Sauschuck@maine.gov), and [Milton.F.Champion@maine.gov](mailto:Milton.F.Champion@maine.gov) and via certified mail, return receipt requested, pursuant to 5 M.R.S. §11003, to the following addresses:

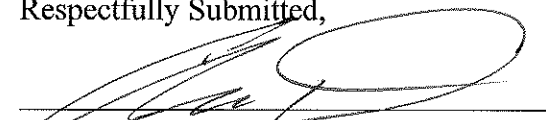
Maine Gambling Control Unit  
Department of Public Safety  
87 State House Station  
Augusta, ME 04333

Department of Public Safety  
104 State House Station  
Augusta, ME 04333

Office of the Attorney General  
Attn: 80C Appeals  
6 State House Station  
Augusta, ME 04333

Dated: January 31, 2025

Respectfully Submitted,

  
Andre G. Duchette, Esq. (ME Bar #9872)

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Maine Gambling Control Unit  
Dept of Public Safety  
87 State House Station  
Augusta, ME 04333



9590 9402 9053 4122 8075 57

## 2. Article Number (Transfer from service label)

7019 2280 0000 8928 3344

PS Form 3811, July 2020 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

**RECEIVED**  
JAN 24 2021  
11:22 AM  
B. Received by (Printed Name)

C. Date of Delivery  
JAN 24 2021  
11:22 AM

- D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

## 3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT

A

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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## 1. Article Addressed to:

Office of The Attorney General  
Attn: SOC Appeals  
6 State House Station  
Augusta, ME 04333



9590 9402 9053 4122 8075 64

## 2. Article Number (Transfer from service label)

7019 2280 0000 8928 3368

PS Form 3811, July 2020 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

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11:22 AM  
B. Received by (Printed Name)

C. Date of Delivery  
JAN 24 2021  
11:22 AM

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If YES, enter delivery address below: ☐ No

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- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
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- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Department of Public Safety  
104 State House Station  
Augusta, ME 04333



9590 9402 9053 4122 8075 11

## 2. Article Number (Transfer from service label)

7019 2280 0000 8928 3351

PS Form 3811, July 2020 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

**RECEIVED**  
JAN 24 2021  
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B. Received by (Printed Name)

☐ Agent  
☐ Addressee

C. Date of Delivery

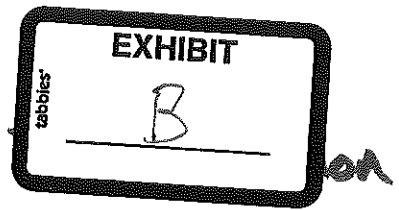
- D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

## 3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
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- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

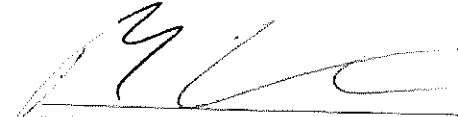


AFFIDAVIT

I, Michael J. Cianchette, having been duly sworn, hereby state, represent, and warrant as follows:

1. I am over 18 years of age and Manager of First Tracks Investments, LLC ("FTI").
2. FTI made numerous investments, hired staff, contracted for services, and commenced wagering activities in September 2024.
3. Sports wagering revenue is generated at higher levels during marquee events, including National Football League playoff games. NFL Conference Championship games are scheduled for January 26, 2025 and the Super Bowl is scheduled for February 9, 2025. If FTI is unable to accept wagers on these events, there is no possibility for FTI to recoup the loss in the event FTI prevails in this matter.
4. As of Sunday, January 19, 2025, more than \$50,000 in open wagers – representing wagers placed by members of the public on future events which had not yet occurred – placed with FTI are pending settlement. If those wagers are terminated, the members of the public who placed the wagers would likely be unable to replace those wagers with online wagering operators, as odds have likely shifted from the time they originally placed the wager.
5. Excepting the Decision and its conclusion on eligibility, FTI has not received any notice from the Director that it violated any substantive rules or laws governing sports wagering established for the protection of the public.

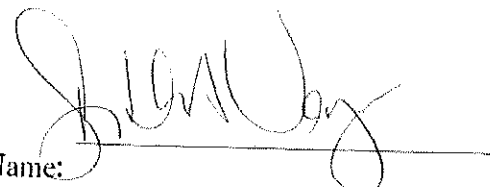
Executed this 22 day of January, 2025.

  
Michael J. Cianchette, Manager

State of Maine

County of Cumberland, ss.

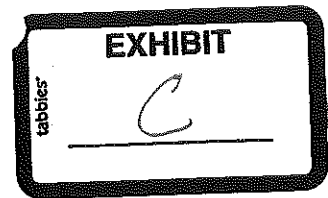
Subscribed and sworn before me this 22<sup>nd</sup> day of January, 2025, by Michael J. Cianchette, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

  
Name: \_\_\_\_\_

Notary Public / ~~Attorney-at-law~~

My Commission Expires:

Deborah A. Vargo  
Notary Public Maine  
My Commission Expires  
February 23, 2028



STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY  
GAMBLING CONTROL UNIT

In Re:

First Tracks Investment, LLC  
d/b/a Oddfellahs

**DECISION**  
**CERTIFIED MAIL**  
#9589 0710 5270 1495 8902 65

**INTRODUCTION**

First Tracks Investments, LLC ("First Tracks"), applied for a facility sports wagering ("FSW") license pursuant to 8 M.R.S. § 1206 to conduct sports wagering at a restaurant operated by First Tracks under the name "Oddfellahs" in Portland, Maine. Because the Oddfellahs restaurant is not one of the facility types listed in § 1206(2), it is not eligible for a sports facility license, and its application is accordingly denied.

**FACTS**

On July 29, 2024, Oddfellahs filed its application for an FSW license to conduct sports wagering at 55 Market Street in Portland. Oddfellahs is owned and operated by First Tracks, which holds a commercial track license to conduct commercial harness racing events at a racetrack in Cumberland. Its commercial track operation is referred to as "Cumberland First Tracks." Oddfellahs provided a copy of a decision and order from the Maine Harness Racing Commission awarding First Tracks a commercial track license to conduct 53 races for calendar year 2024 at its Cumberland racetrack.

On or about August 31, 2024, the GCU issued a temporary FSW license to Oddfellahs pursuant to 8 M.R.S. § 1206(6). Thereafter, Oddfellahs, in contract with Caesars Entertainment, offered in-person sports wagering.

On September 19, 2024, the Director of the GCU requested Oddfellahs' position on its eligibility under § 1206(2). On or about September 19, 2024, Oddfellahs filed a memorandum indicating that First Tracks Investments, LLC should be considered a commercial track and that an owner of a commercial track or a casino, but not an offtrack betting facility, may receive FSW licenses to conduct sports wagering in any physical location controlled by the owner within the state.

## ANALYSIS

Oddfellas asserts that it is eligible for a FSW license because First Tracks holds a commercial track license pursuant to 8 M.R.S. § 271 to conduct harness racing at a track located in Cumberland. I do not agree. As explained below, Oddfellahs is not a commercial track facility as defined by 8 M.R.S. § 275-A and is therefore not eligible for an FSW license.

According to § 275-A, “‘commercial track’ means *any harness horse racing track* that is a for-profit business and *is licensed under this chapter to conduct harness horse racing* with pari-mutuel wagering that is not associated with an agricultural fair as defined in Title 7, section 81.” (emphasis added). A commercial track license is tied to the physical racing track at which the licensee conducts harness racing with pari-mutuel wagering *See* 8 M.R.S. § 271. This is evidenced by the fact that commercial track licenses “must set forth the name of the licensee, the place where the races or race meets are to be held and the specific race dates and time of day or night during which racing may be conducted by the licensee,” (*Id.*) and by the fact that “If the [harness racing] commission determines that the location where a commercial track is licensed to conduct races is unavailable, it may permit a licensee to transfer its license to another location.” *Id.*

Consequently, if the owner of a commercial track license under § 271 receives an FSW license, the license only allows sports wagering at the premises of the licensed commercial track facility. The same is true for “a casino licensed under section 1011” and “[a]n off-track betting facility licensed under section 275-D or Public Law 2019, chapter 626, section 16” – FSW licensees granted to these facilities authorizes sports wagering at those facilities only.<sup>1</sup>

Accordingly, because Oddfellahs is not one of the listed facility types listed in 1206(2), it’s FSW application is **DENIED**.

## APPEAL RIGHTS

Oddfellahs may request an adjudicatory hearing on its application and this decision with the Commissioner of the Department of Public Safety. 8 M.R.S. § 1205(2). The request must be made within 30 days of receipt of this decision. *Id.* Oddfellahs must discontinue sports wagering operations because this decision stands until the Commissioner issues a decision upholding, modifying or overruling the director’s decision. *Id.*; *see also* 16 C.M.R. 633, ch. 52 § 3(3).

<sup>1</sup> The legislature’s intent to restrict sports wagering to the facilities listed in § 1206(2) is clear in the legislative record. According to the enacted bill’s legislative findings and purpose:

The Legislature finds and declares, with respect to the regulatory structure established for sports wagering in Part J of this Act, that:

...

4. Off-track betting facilities, commercial tracks and casinos are well suited to conduct facility-based sports wagering because of their infrastructure and experience with the conduct of wagering in the State.

STATE OF MAINE  
CUMBERLAND, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. PORSC-AP-25-04

FIRST TRACKS INVESTMENTS, LLC, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 MILTON CHAMPION, in his official )  
 Capacity as Director of the Maine )  
 Gambling Control Unit, and )  
 MICHAEL SAUSCHUCK, in his official )  
 Capacity as Commissioner of Public Safety, )  
 )  
 Respondents )

**ORDER GRANTING  
MOTION OF PETITIONER  
FOR TEMPORARY  
RESTRAINING ORDER**

On Motion of First Tracks Investments, LLC, without hearing or notice to the Respondents, the Court hereby GRANTS the Motion and the Decision of the Director dated January 17, 2025 is STAYED.

Pursuant to M. R. Civ. P. 65(a), the Court finds FTI would suffer irreparable injury by requiring it to cease its licensed activities on the precipice of major sporting events, which revenue is necessary to meet its reasonable economic expectations and pay for costs incurred in reliance on the license issued by the Director, and leaves FTI exposed to potential severe liability to members of the public whose wagers on future events, including but not limited to the Super Bowl, remain open. Additionally, FTI may not obtain monetary relief from the State without additional legislation in the event FTI prevails in the underlying action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Justice, Superior Court