

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION

DOCKET NO. FORSC-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 OF PETITIONER
FOR TEMPORARY
RESTRAINING ORDER**

NOW comes Petitioner First Tracks Investments, LLC (“FTI”) 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. FTI notes that grant of the TRO does nothing more than preserve the status quo which has existed since late August 2024.

Facts

Pursuant to M. R. Civ. P. 65(a), FTI notes the following facts shown through the Verified Company and/or the Affidavit attached hereto as Exhibit A evidencing the “immediate and irreparable injury, loss, or damage” faced by FTI.¹

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.

Entered on the Docket: 1/30/2025

¹ Capitalized terms have the same meaning as in the Verified Complaint.

1/29/25 motion denied, no
service, no ex parte request
alto

RECD CLERK'S OFFICE
JAN 22 '25 PM 1:07

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.
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.

Notice

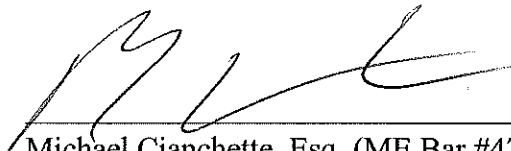
M. R. Civ. P. 65(a) requires FTI to certify “to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.” In accordance with that provision, FTI represents to the Court that, on the morning of January 21, 2025, the undersigned spoke with the Director concerning FTI’s intention to seek the Administrative Stay from the Commission. FTI inquired whether the Director would oppose that request, and the Director indicated he did not intend to take a position.

In the correspondence attaching FTI's request for the Appeal and Administrative Stay (attached to the Verified Complaint as **Exhibit B**), FTI indicated to the Commissioner that it would need to seek judicial relief given the timelines faced by FTI with respect to the above facts in the event the Administrative Stay was not granted. After the Denial, FTI advised the Commissioner that it would seek judicial relief (see **Exhibit C** to the Verified Complaint).

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 suggests² that the TRO should remain until February 28, 2025 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 22, 2025

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael Cianchette', is written over a horizontal line.

Michael Cianchette, Esq. (ME Bar #4788)
Manager, First Tracks Investments, LLC
42 Market Street
Portland, ME 04101
mcianchette@portlandproperties.com
207.774.1000

² FTI also represents that its manager and counsel will be on military orders from January 26, 2025 through February 7, 2025.

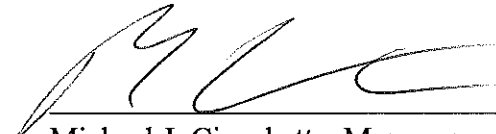
Ex. A
TRO Motion

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.

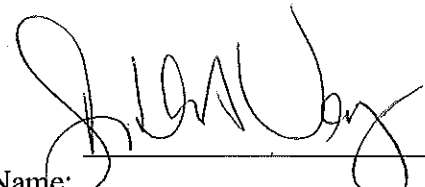
Executed this 22 day of January, 20 25.


Michael J. Cianchette, Manager

State of Maine

County of Cumberland, ss.

Subscribed and sworn before me this 22nd day of January, 20 25, 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
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION

DOCKET NO. FORSC-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 until 11:59PM on February 28, 2025 / _____ (enter date).

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. The Court further finds

FTI has provided electronic and telephonic notice to the Director and Commissioner noting its intent to seek judicial relief, which supports grant of the Motion without formal notice.

FTI shall file a Motion for Preliminary Injunction on or before February 10, 2025 or, in the event Respondents consent to said Preliminary Injunction, advise the Court by letter on or before February 24, 2025.

Date

Justice, Superior Court