



## Appellate Division Decides for Riker Client New Jersey Account Wagering

Riker Danzig's team of gaming and racing lawyers, led by partner John Pellecchia on behalf of New Jersey Account Wagering, LLC, prevailed in an appeal before the Appellate Division of the New Jersey Superior Court against the New Jersey Racing Commission and the New Jersey Sports and Exposition Authority. At issue was the Racing Commission's approval of a contract between the NJSEA and the vendor retained to manage the State's account wagering system.

In 2004, NJAW had entered into an account wagering participation agreement with the NJSEA, under which the NJSEA is required to manage the day-to-day operations of the account wagering system, as long as it is a party to the agreement. In October 2012, the NJSEA contracted with Darby Development LLC to manage the account wagering system as a non-agent independent contractor. Over the objections of NJAW, the Commission approved the Darby contract. NJAW appealed the Racing Commission's approval of the Darby contract, and its renewed approval for 2014.

On appeal, NJAW contended that the Commission's approval of the NJSEA's contract with Darby violated the New Jersey Off-Track and Account Wagering Act, which provides that the NJSEA "may enter into a contract or agreement with a person or entity to conduct or operate an account wagering system or facility for the licensee and to act as the agent of the licensee in all account wagering matters..." This language, NJAW argued, required that Darby be the agent of the NJSEA, and not a non-agent independent contractor, as the Darby contract provided.

On February 17, 2015, the Appellate Division issued an opinion agreeing with the NJAW, and remanded the case to the Commission with instructions to modify its prior orders approving the Darby contract to require that the contract between the NJSEA and Darby be amended to identify Darby as an agent of the NJSEA. The Court also required that the Commission's orders be modified to ensure that "Darby has no final decision making authority, the NJSEA retains ultimate control and decision-making authority, and the NJSEA shall oversee and manage Darby."

John Pellecchia said the decision "sets a precedent that vendor contracting will be done correctly in New Jersey and will comply with New Jersey's gaming laws." He was pleased that the court had confirmed that the licensee, in this case the NJSEA, is responsible for the account wagering system. "A licensee cannot delegate that responsibility in any unsupervised fashion."

Riker Danzig associates Kellen Murphy and Cristin Boyle worked with Pellecchia on this case. Pellecchia and Murphy are quoted on the verdict at [Law360](#) and [New Jersey Law Journal](#).

## **Attorney:**

Cristin M. Boyle

## **Practices:**

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