

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FANDUEL INC.,

Plaintiff,

-against-

ERIC SCHNEIDERMAN, in his official capacity
as Attorney General of the State of New York, and
the STATE OF NEW YORK,

Defendants.

Index No. 161691/2015
Motion Sequence No. 1
IAS Part 13 (Justice Mendez)

AFFIDAVIT OF STEPHEN L. MARTINO

Note: FanDuel is also filing this affidavit in *People by Schneiderman v. FanDuel, Inc.*,
Index No. 453056/2015

AFFIDAVIT OF STEPHEN L. MARTINO

STATE OF MARYLAND)
)
CITY OF BALTIMORE) ss.:

I, Stephen L. Martino, being duly sworn, state as follows:

My Professional Background

1. I am currently a Partner in the law firm Duane Morris LLP where I am a member of the firm’s Corporate and Gaming Law Practice Groups. My practice centers on regulatory compliance and public policy development and interaction for individuals and companies in highly regulated industries, including casino gaming, lottery, pari-mutuel racing and interactive gaming. I represent clients within these industries. I am a member in good standing of the bar of Kansas.

2. Duane Morris represents FanDuel in connection with certain regulatory matters, including outreach efforts to gaming regulatory agencies on matters related to its daily fantasy sports (“DFS”) operations.

3. From 2005 to 2010, I served as Executive Director of the Kansas Racing and Gaming Commission (“Commission”). During my tenure, Kansas passed a law authorizing casinos in the state. As Executive Director, I led the effort to establish Kansas’ gaming regulatory framework, oversaw the state’s casino selection process and organized the opening of the first state-owned and operated casino in the United States.

4. As Executive Director, I was in a strong position to respond to current and emerging challenges in the regulation of gaming, promotion of responsible gaming and reduction in gaming-related harm. During my tenure, I emphasized responsible

gambling awareness and promoted easy access to problem gambling treatment, including developing the Commission's responsible gambling program and the Kansas voluntary exclusion program.

5. In 2010, I was appointed as Director of the Maryland Lottery and Gaming Control Agency ("Agency") by Governor Martin O'Malley. As Director, I was charged with integrating a nascent gaming industry with the lottery organization. I undertook a study of other states' casino regulatory models before helping to craft Maryland's own rules. One of the issues we studied closely in fashioning regulations was promoting the principle that gaming operators, software suppliers and associated service providers need to ensure that their offerings uphold the highest standards to ensure a fair and safe gaming experience that protects players from the adverse consequences of gaming. I am proud to say we established a regulatory framework that will serve Marylanders well by promoting secure, safe and fair gaming. In 2014, I was named Gaming Regulator of Year for the Americas by the International Masters of Gaming Law. By the end of my tenure as Director, I oversaw an agency of over 320 people with an operating budget of roughly \$142 million.

6. In the course of my work at the Agency and Commission, I helped found responsible gaming alliances in Kansas and Maryland, which drew upon government, not-for-profit and community advocates to develop resources and information to help individuals with problem or addictive gambling behaviors. These alliances focused on helping to identify vulnerable populations and coordinating and maximizing resources to address responsible gaming awareness and problem gambling treatment.

7. I have also been active in professional associations which have focused on responsible gambling. From 2012 to 2015, I served as Chairman of the Responsible Gambling Committee of the North American Association of State and Provincial Lotteries where we developed, shared, and promoted best practices on responsible gambling programming. I frequently collaborated with members of the National Council of Problem Gambling and with other national responsible gambling and problem gambling activists as well as academics who study the issue. From these experiences, I am well aware of the issues surrounding problem gambling and gambling addiction, including the impact problem gambling can have on the individual, their families, and the larger community.

Problem Players

8. In the course of my professional and personal efforts to promote responsible gaming behavior, I have not come across any research that would support the claim that FanDuel, or any other DFS company, has “ensnared compulsive gamblers” and threatened segments of the population at risk of addiction. Further, I am unaware of any research or other evidence that participation in DFS contests leads to unusually problematic behavior associated with addiction.

9. As a former regulator well versed in the realities of working in the gaming environment, I do not believe there is any evidence that would suggest that DFS, and fantasy sports more broadly, pose an enhanced risk to the population as compared to other broadly available forms of gaming, such as unregulated or under-regulated gambling, state-sponsored lotteries, and casino gaming. In fact, I see a number of traits that would seem to distinguish DFS from these more broadly available forms of gaming.

In my experience, gambling connected with fast play and instantaneous results has traditionally carried the most potential risk of causing problems related to gaming.

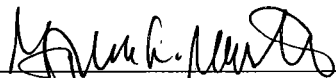
10. Notably, DFS contests, and FanDuel contests in particular, do not offer “instant gratification” of the kind associated with some forms of gambling. From what I understand, the most popular NFL contests last an entire week, with contests opening shortly after Sunday midnight and the applicable games being played from Thursday to Monday evening. While shorter than an NFL season, a DFS contest is much longer than the type of quick gratification that comes from other forms of gaming. Even daily contests do not provide problematic instant gratification because of the time and effort required to select a roster.

11. Although it appears that FanDuel’s games are designed to be user friendly and accessible, they are a complicated and unattractive endeavor for someone looking for a quick gambling hit. Success at fantasy sports including daily contests requires skill and research leading to an involved process of selecting player positions for a fantasy team.

12. In my opinion, DFS contests pose less of a risk for problematic behavior because it is easier to establish robust monitoring and accountability mechanisms and control player behavior on the Internet. For example, electronic self-exclusion lists are valuable tools for proactively screening and addressing any possible issues concerning problem players. The fact that FanDuel has voluntarily chosen to implement and maintain such a list illustrates that FanDuel is acting responsibly and taking the issue seriously. Voluntary exclusion is an important tool of personal responsibility to offer players in allowing them to address appropriately any gaming issue or problem they might have. Implicit in the function of this program is FanDuel’s commitment to remove players who

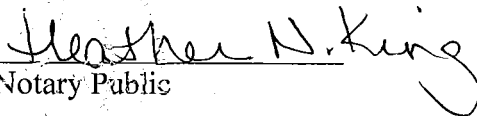
voluntarily self-exclude from its marketing database so that such (former) players no longer receive direct invitations to participate, coupons/vouchers or other promotional material. This type of program respects customer limits and allows him or her to engage with DFS as is appropriate.

13. Of course as with any industry, there are opportunities to implement best practices from other industries as FanDuel continues to promote responsible playing. Like with mobile banking, technology can be deployed that allows players to self-impose spending limits on a daily, weekly or monthly basis. Further, technology interfaces can be programmed to alert players about their amount of play and send responsible gaming messages, including directing them to websites and toll-free numbers where they can receive expert assistance for a potential addiction and/or information about treatment.



Stephen L. Martino

Sworn to before me this
23rd day of November, 2015



Notary Public

CERTIFICATE OF CONFORMITY

I hereby certify that the foregoing acknowledgement of Stephen L. Martino named in the foregoing instrument was taken before me, a Notary Public in the State of Maryland, being the place in which it was taken, and such acknowledgment conforms with the laws of the State of Maryland to the best of my knowledge and belief.

Heather N. King
Notary Public

Commission Expires:
10/30/2016