



Andrew Jackson Building, 15th Floor
500 Deaderick Street
Nashville, Tennessee 37243

October 9, 2026

Jeremy Levine
Chief Executive Officer
Underdog Sports, LLC d/b/a Underdog
UDM, LLC d/b/a Underdog Predict
Aristotle Exchange DCM, Inc. d/b/a Underdog Exchange
150 Waterbury Street
Brooklyn, New York 11206

Via Email to Jeremy.Levine@underdogsports.com and Federal Express Standard Overnight.

RE: Demand to Cease Offering Sports Event Contracts to Persons Located in Tennessee

Dear Mr. Levine:

The Tennessee Sports Wagering Council (the "SWC") regulates sports wagering and fantasy sports in Tennessee.¹ Underdog Sports, LLC d/b/a Underdog (together with its affiliates, including UDM, LLC d/b/a Underdog Predict, and Aristotle Exchange DCM, Inc., "Underdog") holds a Tennessee fantasy sports operator license, but neither it nor any affiliate holds a sports wagering license.² The SWC writes in light of the Sixth Circuit's recent decision in *KalshiEX LLC v. Orgel*.

The SWC understands that Underdog, through UDM, LLC d/b/a Underdog Predict and its affiliated exchange, Aristotle Exchange DCM, Inc. d/b/a Underdog Exchange, offers customers in Tennessee event contracts on the outcomes of sporting events ("Prediction Picks," referred to here as "Sports Event Contracts"). It offers them in the same app it uses for its licensed fantasy sports contests.

Sports Event Contracts are "wagers" under the Tennessee Sports Gaming Act because a customer risks money on the unknown outcome of a sporting event,³ and sports wagering may be offered in Tennessee only under a license issued by the SWC.⁴ Underdog's fantasy sports operator license does not authorize it to offer such wagers. The Fantasy Sports Act excludes any contest whose outcome is based on "the score, point spread, or any performance or performances of any single actual team or combination of teams."⁵

¹Tenn. Code Ann. §§ 4-49-106(a), 4-49-204(a).

²Tenn. Code Ann. § 4-49-203.

³Tenn. Code Ann. § 4-49-102(14), (33), (39).

⁴Tenn. Code Ann. § 4-49-104(a).

⁵Tenn. Code Ann. § 4-49-202(6)(B)(iii).

On September 25, 2026, the Sixth Circuit held that Sports Event Contracts do not satisfy the statutory definition of a swap so as to fall within the scope of the Commodity Futures Trading Commission's exclusive jurisdiction and, even if those contracts are swaps, federal commodities law does not preempt Tennessee's gambling laws as applied to Sports Event Contracts.⁶

Accordingly, the SWC demands that Underdog cease offering Sports Event Contracts, including combined fantasy and sports prediction market entries, to customers in Tennessee immediately.

If Underdog does not comply, the SWC will pursue the remedies available to it. These include fines of \$10,000 to \$25,000 per offense for unlawfully accepting wagers without a license, civil penalties, and injunctive relief through the Office of the Attorney General.⁷ Continuing to offer Sports Event Contracts will also put Underdog's fantasy sports operator license at risk of revocation.⁸ Finally, unlicensed sports wagering is not exempt from Tennessee's criminal gambling statutes, and Underdog's failure to comply with the SWC's demand will also result in the referral of Underdog's illegal gambling operation to law enforcement for further investigation.⁹

The SWC looks forward to Underdog's prompt compliance. Please direct any questions to Nathan Shaver, Director of Fantasy Sports, at (615) 981-5039 or Nathan.S.Shaver@tn.gov.

Sincerely,

Nathan Shaver

Nathan S. Shaver
Director of Fantasy Sports

CC: Mary Beth Thomas, Executive Director, Tennessee Sports Wagering Council

Stephanie S. Maxwell, Deputy Director and General Counsel, Tennessee Sports Wagering Council

Meghan La Corte, Director of Licensing and Regulatory Operations, Underdog Sports
(via email: udlicensing@underdogfantasy.com)

⁶*KalshiEX LLC v. Schuler, KalshiEX LLC v. Orgel*, Nos. 26-3196/5235, slip op. at 3 (6th Cir. Sept. 25, 2026).

⁷Tenn. Code Ann. §§ 4-49-126, 4-49-127(b)(2), 4-49-129.

⁸Tenn. Code Ann. §§ 4-49-204(a)(6), (a)(8), 4-49-208, 4-49-209; Tenn. Comp. R. & Regs. 1350-05-.05(1).

⁹Tenn. Code Ann. §§ 39-17-501(2), 39-17-503, 39-17-504.