IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

KALSHIEX LLC,
416 West 13th Street
Room 207
New York, New York 10014,

***Plaintiff*,**

vs.

ANDROMEDA MORRISON, in her official capacity as Interim Executive Director of the Ohio Casino Control Commission; THOMAS J. STICKRATH, in his official capacity as Chair and Commissioner of the Ohio Casino Control Commission; SHEETAL BAJORIA, in her official capacity as Commissioner of the Ohio Casino Control Commission; SCOTT BORGEMENKE, in his official capacity as Commissioner of the Ohio Casino Control Commission; KEITH CHENEY, in his official capacity as Commissioner of the Ohio Casino Control Commission; PENELOPE CUNNINGHAM, in her official capacity as Vice Chair and Commissioner of the Ohio Casino Control Commission; CHRISTOPHER SMITHERMAN, in his official capacity as Commissioner of the Ohio Casino Control Commission; and THE OHIO CASINO CONTROL COMMISSION,
100 East Broad Street
20th Floor
Columbus, Ohio 43215,

***Defendants*.**

Case No. ___________

Judge ____________

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiff KalshiEX LLC ("Kalshi" or "Plaintiff") is a federally regulated derivatives exchange—known as a "designated contract market" ("DCM")—that is subject to the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC") under the Commodity

Exchange Act, 7 U.S.C. § 1 *et seq.* ("CEA"). Kalshi operates in full compliance with the comprehensive federal regulatory framework that governs trading on DCMs. Yet the Ohio Casino Control Commission (the "Commission") has served Kalshi with a notice seeking to impose an unprecedented $5,000,000 civil monetary penalty for the alleged offense of offering federally authorized event contracts in Ohio without first obtaining an Ohio sports gaming license—a requirement preempted by federal law. *See* 7 U.S.C. § 2(a)(1)(A) (granting "exclusive jurisdiction" to CFTC over transactions in swaps and futures conducted on CFTC-designated contract markets).

2. The Commission's action comes against a backdrop of extensive ongoing litigation around the country, including in two federal district courts within the Sixth Circuit, and two consolidated federal appeals in the Sixth Circuit itself. *See KalshiEX LLC v. Schuler*, No. 2:25-cv-01165 (S.D. Ohio), *appeal docketed*, No. 26-03196 (6th Cir.); *KalshiEX LLC v. Orgel*, No. 3:26-cv-00034 (M.D. Tenn.), *appeal docketed*, No. 26-05235 (6th Cir.). Those appeals, which are set to be argued on July 30, 2026, directly address the question whether state gaming laws are preempted as applied to federally regulated DCMs like Kalshi. Rather than allowing the Sixth Circuit to resolve these issues through orderly appellate review, the Commission is attempting to short-circuit that process by extracting millions of dollars in penalties from Kalshi for the conduct that is at issue in those federal cases.

3. The Commission compounds this overreach by pursuing its penalty through an administrative proceeding that deprives Kalshi of fundamental constitutional protections. On April 14, 2026, the Commission served Kalshi with a notice asserting that Kalshi has operated unlicensed sports gaming in Ohio in violation of Ohio Revised Code ("R.C.") Chapter 3775 and seeking the imposition of a $5,000,000 civil monetary penalty against Kalshi through an administrative proceeding before the Commission.

4. The Commission's notice gave Kalshi thirty (30) days to request a hearing before a "hearing examiner" who, despite the official title, is a private citizen selected and compensated by the Commission. Kalshi had no choice but to request such a hearing, lest it be deemed to acquiesce to the penalty.

5. But the Commission's administrative proceeding affords no right to a civil jury. This violates Kalshi's right to trial by jury under Article I, Section 5 of the Ohio Constitution and transgresses the separation of powers embedded in Article II, Section 1 of the Ohio Constitution.

6. Two years ago, in *SEC v. Jarkesy*, 603 U.S. 109 (2024), the U.S. Supreme Court held that when a government agency seeks civil penalties against a defendant for conduct akin to a common law cause of action, the Seventh Amendment guarantees the defendant a jury trial, and the agency may not adjudicate the matter in-house without a jury.

7. The Court's analysis turned on two principles: first, that civil penalties "designed to punish or deter the wrongdoer rather than solely to restore the status quo" are a "type of remedy at common law that could only be enforced in courts of law," *id.* at 123 (cleaned up); and second, that suits brought by the government for such civil penalties are "a type of action in debt requiring trial by jury," *id.* at 128 (cleaned up).

8. The Ohio Supreme Court has held that the Ohio jury right guarantee, which the Ohio Constitution states "shall be inviolate," Ohio Const. Art. I, § 5, is analogous to the Seventh Amendment, and has applied a two-part framework substantively identical to the framework articulated in *Jarkesy*. *See Arbino v. Johnson & Johnson*, 2007-Ohio-6948; *Porter v. Hammond N. Condo. Ass'n*, 2025-Ohio-2210, ¶¶ 41-49.

9. Both elements of this framework are satisfied here. The Commission seeks to recover statutory civil penalties from Kalshi—a remedy that is wholly punitive in nature and not

connected to any compensatory considerations—through an administrative proceeding lacking a civil jury. And the cause of action by which the Commission seeks to recover this civil monetary penalty is rooted in the common law action for debt, which Ohio courts have long recognized as the proper form of action for the recovery of statutory fines, penalties, and forfeitures. *See Markle v. Town Council of Akron*, 14 Ohio 586, 591 (1846); *Ocean Acc. & Guar. Corp. v. Reynolds*, 30 Ohio N.P.(N.S.) 550 (Ohio C.P. 1933).

10. The separation of powers is "implicitly embedded in the entire framework of those sections of the Ohio Constitution that define the substance and scope of powers granted to the three branches of state government." *City of S. Euclid v. Jemison*, 28 Ohio St. 3d 157, 159 (1986).

11. Article II, Section 1 of the Ohio Constitution provides that "[t]he legislative power of the state shall be vested in a General Assembly consisting of a senate and house of representatives." R.C. Chapter 119 vests the Commission with the power to select a non-judicial forum in its enforcement actions, thereby allowing the Commission to impose statutory penalties under R.C. Chapter 3775, without any intelligible principle in either R.C. Chapter 119 or R.C. Chapter 3775 to guide the exercise of this legislative power. R.C. Chapter 3775 itself further lacks any intelligible principle to guide the Commission's exercise of legislative power in setting statutory penalties. R.C. Chapters 119 and 3775 therefore each include an unconstitutional delegation of legislative power to the executive branch.

12. Kalshi accordingly seeks permanent injunctive relief under R.C. 2721.02(A) and 2721.03 enjoining the Commission from continuing its administrative proceeding against Kalshi,[1] a declaratory judgment under R.C. 2721.02(A) and 2721.03 declaring that the Commission's administrative proceeding and threatened penalties violate Kalshi's right to trial by jury under

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[1] Kalshi reserves its right to move for preliminary injunctive relief.

Article I, Section 5 of the Ohio Constitution, and a declaratory judgment under R.C. 2721.02(A) and 2721.03 declaring both that enforcement of a statutory penalty under R.C. Chapter 3775 must occur in a forum that affords a jury and that R.C. Chapter 3775 fails to provide an intelligible principle for the Commission's imposition of statutory penalties.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to R.C. 2305.01 because the action arises under the Ohio Constitution, R.C. 2727.02 and 2727.03, and the Ohio Declaratory Judgment Act, R.C. 2721.02(A) and 2721.03. The legal questions presented include: (1) whether the Commission's threatened administrative proceeding and civil monetary penalties violate the right to trial by jury under Article I, Section 5 of the Ohio Constitution, the framework for which is coextensive with that of the Seventh Amendment to the United States Constitution as articulated in *Jarkesy*; (2) whether the enforcement of a statutory penalty under R.C. Chapter 3775 in a forum that does not afford for a jury violates the Ohio Constitution's separation of powers; and (3) whether R.C. Chapter 3775's failure to provide constraints upon the Commission's ability to determine statutory penalties violates the Ohio Constitution's separation of powers.

14. Additionally, this Court has jurisdiction because Kalshi brings equitable claims for injunctive and declaratory relief and does not seek money damages. *See Pivonka v. Corcoran*, 2024-Ohio-5318, ¶ 12 (8th Dist.) ("[T]he courts of common pleas have jurisdiction over actions against the State alleging equitable claims.").

15. Venue is proper under Ohio Civ. R. 3(C). The Commission is headquartered in and the Commission, its staff, and individual commissioners perform their duties in Franklin County at 100 East Broad Street, Columbus, Ohio 43215. A substantial part of the events giving rise to the

claim occurred in Franklin County, including the issuance of the April 14, 2026, notice. Kalshi further understands that the threatened administrative proceeding is to occur in Franklin County.

PARTIES

16. Plaintiff KalshiEX LLC is a Delaware limited liability company with its principal place of business at 416 West 13th Street, Room 207, New York, New York 10014. Kalshi operates a derivatives exchange and prediction market where users can buy and sell financial products known as event contracts.

17. Defendant Andromeda Morrison is sued in her official capacity as the Interim Executive Director of the Ohio Casino Control Commission.

18. Defendant Thomas J. Stickrath is sued in his official capacity as the Chair and Commissioner of the Ohio Casino Control Commission.

19. Defendant Sheetal Bajoria is sued in her official capacity as Commissioner of the Ohio Casino Control Commission.

20. Defendant Scott Borgemenke is sued in his official capacity as Commissioner of the Ohio Casino Control Commission.

21. Defendant Keith Cheney is sued in his official capacity as Commissioner of the Ohio Casino Control Commission.

22. Defendant Penelope Cunningham is sued in her official capacity as Vice Chair and Commissioner of the Ohio Casino Control Commission.

23. Defendant Christopher Smitherman is sued in his official capacity as Commissioner of the Ohio Casino Control Commission.

24. Defendant Ohio Casino Control Commission is the Ohio state agency charged with regulating sports gaming in the State of Ohio. R.C. 3775.02. The Commission's principal offices

are located at 100 East Broad Street, 20th Floor, Columbus, Ohio 43215. The Commission issued the April 14, 2026, notice; has hand-selected a private-citizen "hearing examiner" to preside over the proceedings against Kalshi and, on information and belief, will compensate that hearing examiner at rates charged by the hearing examiner as a lawyer in private practice; and will ultimately decide whether to confirm the recommendation made by the hearing examiner as to Kalshi's alleged liability and any civil monetary penalty to be imposed by the Commission.

FACTUAL ALLEGATIONS

A. Kalshi is a Designated Contract Market Regulated by the CFTC.

25. Congress has established a comprehensive federal regulatory structure governing derivatives trading that is designed to be uniform and exclusive, displacing the patchwork of state regulations that previously produced confusion and inconsistency across markets. Futures contracts have long been regulated by the federal government. In 1936, Congress passed the CEA, which provides for federal regulation of all commodities and futures trading activities and requires that all futures and commodity options are traded on organized, regulated exchanges.

26. In 1974, Congress established the CFTC as the federal agency empowered with exclusive jurisdiction over exchanges under the CEA. This was a change from the sharing of jurisdiction between the states and the federal government, an arrangement Congress ultimately determined would lead to "total chaos" due to differences among state laws. Hearings Before the S. Comm. on Agric. & Forestry, 93d Cong., 2d Sess. 685 (1974).

27. The public can only trade derivatives on a board of trade that the CFTC has designated as a contract market, or DCM. 7 U.S.C. §§ 2(e), 6(a)(1), 7(a); 17 C.F.R. § 38.3(a). To obtain designation, exchanges must demonstrate compliance with 23 "Core Principles" identified in the CEA and CFTC regulations, covering areas such as market surveillance, protection of market participants, and the prevention of market manipulation. 7 U.S.C. § 7(d); 17 C.F.R.

§ 38.3(a)(2) (2026). Once the CFTC designates an entity as a contract market, the CEA gives the CFTC "exclusive jurisdiction" over the derivatives traded on the market. This exclusive jurisdiction extends to "event contracts." *See id.* § 1a(47)(A)(ii), (iv), (vi); *see also id.* § 1a(19)(iv).

28. The CEA's enforcement process rounds out the comprehensive federal framework that regulates derivatives listed and traded on DCMs. The CEA gives the CFTC discretion as to how to police and enforce violations of the CEA for DCMs.

29. Derivatives contracts are financial tools used to mitigate risk. Event contracts are a quintessential example of a derivatives contract—namely, a swap referencing a CEA-defined commodity. This form of derivatives contract identifies a future event with several possible outcomes, a payment schedule for the outcomes, and an expiration date.

30. In 2010, Congress amended the CEA to add "swaps" to the CFTC's exclusive jurisdiction. *See id.* § 1a(47)(A)(ii), (iv), (vi); *see KalshiEX LLC v. CFTC*, No. 23-3257, 2024 WL 4164694, at *2-3 (D.D.C. Sept. 12, 2024). The CFTC regulates event contracts as a type of "swap" contract. *See id.* § 1a(47)(A)(ii), (iv), (vi); *see KalshiEX LLC v. CFTC*, No. 23-3257, 2024 WL 4164694, at *2-3 (D.D.C. Sept. 12, 2024).

31. The CFTC has also recognized that event contracts, including contracts on "the outcome of particular entertainment events," "can be designed to exhibit the attributes of either options or futures contracts." *Concept Release*, 73 Fed. Reg. 25,669, 25,669–70 (May 7, 2008). An "occurrence"-based futures contract or option results in a payment based on a specified occurrence or extent of an occurrence—for example, the occurrence or severity of a hurricane. Where event contracts pay out based on financially significant occurrences, they are "of the character of" futures and options, as understood by derivatives markets. *See id.* § 1a(36) (defining "option").

32. Kalshi is a CFTC-regulated DCM where users can trade event contracts. In 2020, the CFTC designated Kalshi as a contract market, affirming that its platform complied with the CEA. Since then, Kalshi has been regulated as a financial exchange under federal law, alongside entities like the Chicago Mercantile Exchange and the Intercontinental Exchange.

33. Kalshi offers a secure and federally approved exchange where individual, retail, and institutional participants can hedge their risks on event-based outcomes. Kalshi's exchange links traders seeking to hedge or seeking returns based on the uncertainty associated with financially significant events.

34. Kalshi offers many kinds of event contracts related to an array of substantive areas like economics, finance, climate, technology, health, elections, popular culture, and sports. For example, Kalshi's platform currently allows users to trade on the level of US GDP growth in Q2 2026, the closing price of the S&P 500 at the end of 2026, whether India will meet its 2030 climate goals, or whether the market share for electric vehicles will be above 50% in 2030. Kalshi also offers contracts on the outcomes of Supreme Court decisions, congressional votes, weather events, technological benchmarks, markers of cultural influence, and Federal Reserve interest rate decisions.

35. Since 2020, the CFTC has allowed thousands of Kalshi's event contracts to be listed, traded, and closed, with no hint that the agency views these contracts as falling outside of its jurisdiction.

B. State Regulators Accuse Kalshi of Violating State Gaming Laws.

36. In January 2025, Kalshi began offering contracts on sports events. When Kalshi first self-certified its sports-event contracts, the CFTC asked Kalshi to submit a "[d]emonstration of compliance" with the CEA. 17 C.F.R. § 38.5(b). Kalshi responded with detailed filings describing the contracts' compliance with the CEA and CFTC regulations. *KalshiEX LLC v. Orgel*,

No. 26-cv-34, 2026 WL 474869, at *5 (M.D. Tenn. Feb. 19, 2026). The CFTC took no further action. It has since permitted Kalshi and other prediction markets to list tens of thousands of sports-event contracts without objection.

37. Beginning in early 2025, state gaming regulators across the country have asserted that Kalshi's federally regulated event contracts are subject to state gaming laws.

38. These regulators have variously sought to enforce preempted state licensing regimes, criminal gambling statutes, public nuisance statutes, and civil penalty regimes against Kalshi for offering federally authorized event contracts to consumers in their respective states. These preemption issues are presently in litigation in multiple jurisdictions, including the Southern District of Ohio, the Middle District of Tennessee, and the Sixth Circuit. *See, e.g.*, *KalshiEX LLC v. Schuler*, No. 2:25-cv-01165 (S.D. Ohio filed Oct. 7, 2025), *appeal docketed*, No. 26-03196 (6th Cir. Mar. 11, 2026); *KalshiEX LLC v. Orgel*, No. 3:26-cv-00034 (M.D. Tenn.), *appeal docketed*, No. 26-05235 (6th Cir.).

39. While appeals are pending before the Fourth and Ninth Circuits as well, the only federal court of appeals to rule on the issue is the Third Circuit, which recently held that New Jersey's state gaming laws are preempted by the CEA. *KalshiEX, LLC v. Flaherty*, 172 F.4th 220 (3d Cir. 2026).

40. The Third Circuit was correct. And the CFTC agrees, having initiated litigation against multiple states to enjoin the application of state gaming laws to event contracts traded on DCMs. *See* Complaint, *United States v. Connecticut*, No. 3:26-cv-00498 (D. Conn. Apr. 2, 2026), Dkt. No. 1; Complaint, *United States v. Arizona*, No. 2:26-cv-02246 (D. Ariz. Apr. 2, 2026), Dkt. No. 1; Complaint, *United States v. Illinois*, No. 1:26-cv-03659 (N.D. Ill. Apr. 2, 2026), Dkt. No. 1; Complaint, *United States v. New York*, No. 1:26-cv-03404 (S.D.N.Y. Apr. 24, 2026), Dkt. No.

1; Complaint, *United States v. Wisconsin*, No. 2:26-cv-00749 (E.D. Wis. Apr. 28, 2026), Dkt. No. 1; Complaint, *United States v. Minnesota*, No. 0:26-cv-02661 (D. Minn. May 19, 2026), Dkt. No. 1; Complaint, *United States v. New Mexico*, No. 1:26-cv-01912 (D.N.M. June 12, 2026), Dkt. No. 1; Motion to Intervene, *KalshiEX LLC v. Furcolo*, No. 1:26-cv-00327 (D.R.I. May 28, 2026), Dkt No. 19.

41. Notwithstanding this ongoing federal litigation, including litigation to which the Commission is a party, see *KalshiEX LLC v. Schuler*, No. 2:25-cv-01165 (S.D. Ohio), *appeal docketed*, No. 26-03196 (6th Cir.), the Commission has determined to pursue civil monetary penalties against Kalshi through an administrative proceeding under Ohio law.

C. The Commission Seeks to Commence Administrative Proceedings Against Kalshi.

42. On April 14, 2026, the Commission served Kalshi by certified mail and email with a Notice of Intent to Impose a Penalty or Fine for Operating or Conducting Unlicensed Sports Gaming in Ohio and Opportunity for Hearing, Case No. 2026-SGR-001 (the "Notice").

43. The Notice asserts that, "[f]rom approximately January 2025 through the date of this Notice, Kalshi has operated or conducted sports gaming in Ohio without a license through its online platform and its mobile application." The Notice characterizes Kalshi's federally regulated event contracts as "sports event contracts" that "allow Ohio consumers to choose the outcome of a sporting event – e.g. who will win or lose – and to stake money on that choice," and contends that those contracts constitute "wagers" or "bets" on "sporting events" under Ohio law.

44. The Notice charges Kalshi with violating R.C. 3775.03(A)(1), which provides that "no person shall operate, conduct, or assist in operating or conducting sports gaming in this state without first obtaining an appropriate sports gaming license from the Ohio casino control commission." The Notice further alleges that Kalshi has engaged in conduct subject to

administrative action under Ohio Admin. Code 3775-1-08 by "failing to cooperate with the Commission" and "engaging in conduct that undermines the integrity, or public confidence in, sports gaming in Ohio."

45. The Notice expressly seeks the imposition of "a monetary fine and/or civil penalty in [the] amount of $5,000,000 against Kalshi for operating or conducting sports gaming in Ohio without a license issued by the Commission since approximately January 2025 through the date of this notice." The Notice cites the Commission's authority under R.C. 3775.02, 3775.03, and Ohio Admin. Code 3775-1-08 to impose penalties, but does not explain how it arrived at this $5,000,000 figure.

46. The Notice further informs Kalshi that, pursuant to R.C. 119.06, 119.07, 3772.04, or 3775.02, Kalshi "is entitled to a hearing on this matter." Kalshi has timely requested a hearing within thirty days as required by the Notice, expressly stating that it did not submit to or waive its objection to the Commission's exercise of jurisdiction over it. At such a hearing, the matter will be adjudicated administratively by the Commission, with no civil jury available to find facts or impose any civil penalty. The proceedings will be adjudicated by a lawyer in private practice selected and compensated exclusively by the Commission.

D. The U.S. Supreme Court Vindicates the Constitutional Right to a Civil Jury in Administrative Proceedings.

47. In *SEC v. Jarkesy*, 603 U.S. 109 (2024), the Securities and Exchange Commission ("SEC") sought civil monetary penalties against an investment adviser for alleged securities fraud violations through the SEC's in-house administrative adjudication procedures, where there is no jury. The Supreme Court held that the SEC's adjudication of those civil penalties without a jury violated the Seventh Amendment to the U.S. Constitution.

48. *Jarkesy* articulated a two-step framework. The first step asks whether the action implicates the Seventh Amendment, which extends to all "[s]uits at common law," U.S. Const. amend. VII, including statutory claims that are "legal in nature." *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 53 (1989); *Jarkesy*, 603 U.S. at 122-23. To decide whether a claim is legal in nature, courts "consider whether the cause of action resembles common law causes of action, and whether the remedy is the sort that was traditionally obtained in a court of law." *Jarkesy*, 603 U.S. at 123. "Of these factors, the remedy is the more important." *Id.*

49. The Court explained that monetary relief is "legal in nature when it is designed to punish or deter the wrongdoer rather than solely to restore the status quo." *Jarkesy*, 603 U.S. at 123 (cleaned up) (quoting *Tull v. United States*, 481 U.S. 412, 422 (1987)). "[C]ivil penalt[ies are] a type of remedy at common law that could only be enforced in courts of law." *Id.* (cleaned up). And "[a]ctions by the Government to recover civil penalties under statutory provisions … historically ha[ve] been viewed as [a] type of action in debt requiring trial by jury." *Id.* at 128 (cleaned up).

50. *Jarkesy* emphasized that this analysis turns on the substance of the claim, not its statutory packaging or the forum in which the government chooses to pursue it. "Congress cannot conjure away the Seventh Amendment by mandating that traditional legal claims be … taken to an administrative tribunal." *Id.* at 135 (cleaned up). And "[w]hat matters is the substance of the suit, not where it is brought, who brings it, or how it is labeled." *Id.* (citation omitted).

51. Although *Jarkesy* was decided under the Seventh Amendment to the U.S. Constitution, its framework applies with equal force under Article I, Section 5 of the Ohio Constitution, which provides that "[t]he right of trial by jury shall be inviolate." The Ohio Supreme Court has characterized the Seventh Amendment right as "analogous" to the Ohio jury right

guarantee, *see Arbino v. Johnson & Johnson*, 2007-Ohio-6948, ¶ 41, and Ohio courts have applied the same two-part inquiry. Under Ohio law, a jury trial right exists where (1) the type of claim has a common law analogue that predates the Ohio Constitution, and (2) the relief sought is legal in nature. *See McClain v. State*, 2022-Ohio-4722, ¶¶ 7, 16; *Belding v. State ex rel. Heifner*, 121 Ohio St. 393, 396 (1929); *Porter v. Hammond N. Condo. Ass'n*, 2025-Ohio-2210, ¶¶ 41-49.

52. Indeed, the First District Court of Appeals recently referenced *Jarkesy* in conducting an Ohio jury right analysis, recognizing that under both constitutional provisions, "factually identical claims may sometimes be equitable or legal depending on the nature of the remedy sought." *Porter*, 2025-Ohio-2210, ¶ 49 (1st Dist.) (citing *Jarkesy*, 603 U.S. at 123). And, like the Seventh Amendment, the Ohio jury right guarantee protects against legislative or administrative "curtailment" of the right by routing legal claims into juryless adjudicatory forums. *See Sorrell v. Thevenir*, 69 Ohio St.3d 415, 421 (1994); *Cleveland Ry. Co. v. Halliday*, 127 Ohio St. 278, 284 (1933).

53. Accordingly, the framework that the Supreme Court articulated in *Jarkesy* controls the analysis of Kalshi's right to a civil jury under Article I, Section 5 of the Ohio Constitution.

E. The Commission's Proceeding Violates Kalshi's Right to a Trial by Jury Under the Ohio Constitution.

54. Application of the *Jarkesy* framework to the Commission's threatened proceeding readily demonstrates that Kalshi has a right to a civil jury under Article I, Section 5 of the Ohio Constitution.

55. First, the Commission's action is legal, not equitable, in nature. The Notice seeks the imposition of a $5,000,000 civil monetary penalty against Kalshi. That penalty is wholly punitive in nature and is not connected to any compensatory considerations. The Commission does not allege any individualized harm to any private party that the penalty would compensate; it

instead invokes the asserted need to vindicate the integrity of Ohio's licensing regime, deter unlicensed operators, and punish Kalshi for the duration and scope of its alleged conduct. *See* Ohio Admin. Code 3775-1-08(C) (factors include "the risk to the public and to the integrity of sports gaming in this state"); R.C. 3775.02; R.C. 3775.03.

56. Civil penalties of this kind—"designed to punish or deter the wrongdoer rather than solely to restore the status quo"—are quintessentially legal in nature. *Jarkesy*, 603 U.S. at 123 (cleaned up). They are "a type of remedy at common law that could only be enforced in courts of law." *Id.* (cleaned up). That conclusion is "all but dispositive" of the legal-versus-equitable inquiry. *Id.*

57. Second, the cause of action by which the Commission seeks to recover the civil monetary penalty has a common law analogue that predates the Ohio Constitution: it is, in substance, an action for debt. The Supreme Court has long recognized that "[a]ctions by the Government to recover civil penalties under statutory provisions … historically ha[ve] been viewed as [a] type of action in debt requiring trial by jury." *Jarkesy*, 603 U.S. at 128 (cleaned up).

58. Ohio law has recognized this principle since the earliest days of statehood. In *Markle v. Town Council of Akron*, 14 Ohio 586 (1846), the Ohio Supreme Court held that a municipality's action to recover a statutory penalty for the unlicensed retailing of intoxicating liquor sounded in debt at common law. The Court explained that, in such an action, "[t]he object of the action is the recovery of a penalty or forfeiture accruing from the violation of the ordinance," and that "[d]ebt is, in fact, the only form of action recognized by the principles of the common law for the recovery of fines, penalties, and forfeitures." *Id.* at 591.

59. Ohio courts continued to recognize this principle long after the adoption of the Ohio Constitution. *See Ocean Acc. & Guar. Corp. v. Reynolds*, 30 Ohio N.P.(N.S.) 550 (Ohio C.P. 1933)

(recognizing *Markle's* holding that an action for the recovery of a statutory fine "partake[s] of the nature of a debt" and observing that the Ohio law of insolvent debtors had been applied to fines for liquor law violations); *see also Hull v. Bell*, 54 Ohio St. 228, 239 (1896) (claims that "sounded in assumpsit, debt, or covenant at common law" are "triable to a jury").

60. The cause of action that the Commission asserts under R.C. 3775.03(A)(1)—a statute imposing pecuniary penalties for unlicensed conduct, recoverable by a public agency on behalf of the State—is materially indistinguishable from the action for debt recognized in *Markle*. The Commission seeks a sum of money due to the State for the violation of a statute. That is the paradigmatic common law action for debt.

F. The Commission's Proceeding Violates the Separation of Powers Under the Ohio Constitution.

61. The separation of powers, which constrains the degree to which one branch of the Ohio government may delegate its constitutional powers and responsibilities to other branches, has been recognized as "implicitly embedded in the entire framework of those sections of the Ohio Constitution that define the substance and scope of powers granted to the three branches of state government." *City of S. Euclid v. Jemison*, 28 Ohio St. 3d 157, 159 (1986).

62. Article II, Section 1 of the Ohio Constitution provides that "[t]he legislative power of the state shall be vested in a General Assembly consisting of a senate and house of representatives."

63. For a statute to delegate legislative power to an administrative body, it must establish an intelligible principle by which the administrative body can abide. *See Blue Cross of Ne. Ohio v. Ratchford*, 64 Ohio St. 2d 256, 256 (1980).

64. The power to select a non-judicial forum, where the jury right of the Ohio Constitution automatically disappears, to resolve alleged violations of a statute is a core legislative

power. *See Crowell v. Benson*, 285 U.S. 22, 50 (1932) (holding that "the mode of determining" which cases are assigned to administrative tribunals "is completely within congressional control.").

65. R.C. Chapter 119 delegates this legislative power to the Commission by permitting the Commission to conduct administrative proceedings arising under statutes including, as here, R.C. Chapter 3775. Despite delegating this power, neither R.C. Chapter 119 nor R.C. Chapter 3775 articulate any intelligible principle to guide its exercise. *See* R.C. Chapter 119.09 (empowering administrative bodies to conduct adjudication proceedings); R.C. Chapter 3775.02 ("The Ohio casino control commission shall have jurisdiction over all persons conducting or participating in the conduct of sports gaming authorized by this chapter or by sections 3770.23 to 3770.25 of the Revised Code, including the authority to license, regulate, investigate, and penalize those persons in a manner that is consistent with the commission's authority with respect to casino gaming.").

66. R.C. Chapter 3775 further grants the Commission the unbounded power to set statutory penalties, without articulating an appropriate intelligible principle such as a statutory maximum penalty or a means of calculating an appropriate penalty. *See* R.C. Chapter 3775-1-08(C) ("Without in any manner limiting the authority of the commission to impose the level and type of sanction it may consider appropriate, the commission may take into consideration: (1) The risk to the public and to the integrity of sports gaming in this state; (2) Any criteria or factor listed in Chapter 3772. or 3775. of the Revised Code and any rules adopted thereunder; or (3) Any other factors the commission may consider relevant.").

67. By failing to articulate any intelligible standard for the determination of statutory penalties, R.C. Chapter 3775 acts to unconstitutionally delegate core legislative power to the Commission. *Compare State v. Wallace*, 318 N.E.2d 883, 885 (Mun. 1974) (treating as unconstitutional a statute that vested an agency with "unlimited authority at his discretion without

the requisite guidelines, yardstick or other measur[i]ng device") *with Distributors Pharmacy, Inc. v. Ohio State Bd. of Pharmacy*, 41 Ohio App. 3d 116, 116 (8th Dist. 1987) (finding a constitutional delegation of legislative authority where a statute set a "sliding penalty scale" and a statutory maximums for penalties).

REQUISITES FOR RELIEF

68. In the absence of relief, the Commission will adjudicate Kalshi's alleged liability for an unprecedented $5,000,000 civil penalty through an administrative proceeding lacking any civil jury, in violation of Article I, Section 5 of the Ohio Constitution, and in violation of the doctrine of separation of powers.

69. An actual and substantial controversy exists between Plaintiff and Defendants as to their respective legal rights and duties. The Commission has formally noticed its intent to impose a $5,000,000 civil penalty against Kalshi through administrative adjudication, and Kalshi maintains that the Ohio Constitution forecloses the Commission's inappropriate exercise of legislative power and guarantees Kalshi a civil jury for any such penalty proceeding. The Commission's threatened conduct has caused, and absent injunctive and declaratory relief will continue to cause, irreparable injury to Kalshi, including the deprivation of its constitutional right to a civil jury, the costs and burdens of defending a constitutionally infirm administrative proceeding, and the prospect of a $5,000,000 civil penalty imposed without a jury.

70. Kalshi seeks declaratory and injunctive relief under its constitutional challenges to the Commission's conduct and to its enforcement of R.C. Chapter 3775. "Because administrative bodies have no authority to interpret the Constitution, requiring litigants to assert constitutional arguments administratively would be a waste of time and effort for all involved. If resort to administrative remedies would be wholly futile, exhaustion is not required." *Jones v. Chagrin Falls*, 77 Ohio St. 3d 456, 460–61 (Ohio 1997) (cleaned up); *see also Fairview Gen. Hosp. v.*

Fletcher, 63 Ohio St. 3d 146, 149 (Ohio 1992) ("Exhaustion of administrative remedies is not required where the only claim presented in a declaratory judgment action is the validity or constitutionality of a statute.")

71. Furthermore, as the U.S. Supreme Court and Sixth Circuit have recognized, "structural" constitutional claims—among them, claims implicating the separation of powers—are not subject to typical requirements for exhaustion of administrative remedies. *See Axon Enter., Inc. v. Fed. Trade Comm'n*, 598 U.S. 175 (2023); *Ramsey v. Comm'r of Soc. Sec.*, 973 F.3d 537, 545–46 (6th Cir. 2020).

72. Kalshi has no plain, speedy, or adequate remedy at law to address the wrongs described herein. Kalshi therefore seeks permanent injunctive relief under R.C. 2727.02 and 2727.03 enjoining the Commission from continuing its administrative proceeding, and declaratory relief under R.C. 2721.02(A) and 2721.03 declaring that: (1) the Commission's administrative proceeding and threatened civil monetary penalties violate Kalshi's right to trial by jury under Article I, Section 5 of the Ohio Constitution and; (2) that the Commission's attempted enforcement of R.C. Chapter 3775 violates the separation of powers.

COUNT I

(Declaratory Judgment)

73. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 72 above as if fully set forth herein.

74. "[C]ourts of record may declare rights, status, and other legal relations whether or not further relief is or could be claimed." R.C. 2721.02(A). "The declaration may be either affirmative or negative in form and effect." *Id.*; see also Civ.R. 57 (same).

75. As a result of the Commission's violations of law, Plaintiff is entitled to judgment declaring that:

A. Defendants' initiation of an administrative proceeding against Plaintiff that lacks any civil jury, and through which the Commission seeks to impose a civil monetary penalty, threatens to deprive Plaintiff of its constitutionally guaranteed right to trial by jury under Article I, Section 5 of the Ohio Constitution.

B. Defendants' initiation of an administrative proceeding to impose civil monetary penalties against Plaintiff is an improper exercise of legislative power in violation of Article II, Section 1 of the Ohio Constitution.

COUNT II

(Violation of Right to Civil Jury under Article I, Section 5 of the Ohio Constitution)

76. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 75 above as if fully set forth herein.

77. There is an actual controversy between Plaintiff and Defendants regarding whether the Commission's authority to pursue administrative proceedings seeking civil monetary penalties for alleged statutory violations violate a party's right to trial by jury under Article I, Section 5 of the Ohio Constitution that will be resolved by injunctive relief and declaratory judgment.

78. Article I, Section 5 of the Ohio Constitution provides, subject to an exception not relevant here, that "[t]he right of trial by jury shall be inviolate."

79. By initiating an administrative proceeding that lacks any civil jury and through which it seeks to impose civil monetary penalties, the Commission threatens to deprive parties whom it accuses of statutory violations of their constitutionally guaranteed right to trial by jury under Article I, Section 5 of the Ohio Constitution.

80. Kalshi is entitled to a permanent injunction enjoining the Commission from continuing its proceeding against Kalshi, and a declaration that the Commission's administrative proceeding and threatened civil monetary penalties violate a party's right to trial by jury under Article I, Section 5 of the Ohio Constitution, and may not be adjudicated in any forum that does not afford Kalshi the right to a civil jury.

COUNT III

(Violation of Separation of Powers)

81. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 72 above as if fully set forth herein.

82. There is an actual controversy between Plaintiff and Defendants regarding whether R.C. Chapters 119 and 3775 violate the doctrine of separation of powers implicitly embedded into the Ohio Constitution that will be resolved by injunctive relief and declaratory judgment.

83. Article II, Section 1 of the Ohio Constitution provides that "[t]he legislative power of the state shall be vested in a General Assembly consisting of a senate and house of representatives."

84. R.C. Chapter 119 grants the Commission the core power of the legislature to determine which cases are assigned to administrative tribunals, and R.C. Chapter 3775 grants the Commission the core power of the legislature to determine penalties for statutory violations.

85. Despite delegating these core legislative powers to the Commission, neither R.C. Chapter 119 nor R.C. Chapter 3775 articulate an intelligible principle to guide the exercise of such powers. The Commission has used legislative power to select a lawyer in private practice to serve as a "hearing examiner" and, on information and belief, to compensate the hearing examiner at his hourly rates. The enforcement of a statutory penalty under R.C. Chapter 3775 in a forum that does not allow for a jury constitutes an unconstitutional delegation of legislative power.

86. R.C. Chapter 3775 further fails to articulate an intelligible principle guiding the determination of statutory penalties which arise under it, including by failing to provide a scale for penalty calculation or a statutory maximum penalty.

87. The Commission's efforts to initiate administrative proceedings and impose a $5,000,000 civil monetary penalty against Kalshi are therefore examples of the Commission's improper exercise of legislative power.

88. Kalshi is entitled to a permanent injunction enjoining the Commission from enforcing R.C. Chapter 3775 against Kalshi, and a declaration that (1) the enforcement of a statutory penalty under R.C. Chapter 3775 must occur in a forum that affords a jury, and (2) that R.C. Chapter 3775 fails to provide an intelligible principle for imposing a statutory penalty, such that R.C. Chapter 3775 may not be utilized as a basis for imposing civil penalties upon Kalshi.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Kalshi respectfully requests that judgment be entered in its favor and against Defendants as follows:

1. Enter a declaratory judgment under R.C. 2721.02(A) and 2721.03 declaring that the Commission's administrative proceeding initiated by the April 14, 2026 Notice of Intent to Impose a Penalty or Fine for Operating or Conducting Unlicensed Sports Gaming in Ohio (Case No. 2026-SGR-001), and the civil monetary penalty threatened to be imposed through that proceeding, violate Plaintiff's right to trial by jury under Article I, Section 5 of the Ohio Constitution, and that any such civil monetary penalty must be adjudicated in a forum affording Plaintiff the right to a civil jury;

2. Enter a declaratory judgment under R.C. 2721.02(A) and 2721.03 declaring that the enforcement of a statutory penalty under R.C. Chapter 3775 must occur in a forum that affords a jury, that R.C. Chapter 3775 fails to provide an intelligible principle for imposing a statutory penalty, and that the Commission's threatened civil monetary penalties imposed through R.C. Chapter 3775 are therefore invalid on the basis of violating the separation of powers;

3. Enter an order permanently enjoining Defendants from enforcing R.C. Chapter 3775 against Plaintiff or continuing their administrative proceeding against Plaintiff; and

4. Any other relief within this Court's discretion that it deems just and proper.

Respectfully submitted,

Dated: June 29, 2026

/s/ Matthew L. Jalandoni

Matthew L. Jalandoni (0087074)
Michael J. Hunter (0076815)
Shane M. Wiegerig (0096782)
Flannery | Georgalis, LLC
175 S. Third Street, Suite 285
Columbus, OH 43215
T: (614) 324-4139
F: (614) 526-0601
mjalandoni@flannerygeorgalis.com
mhunter@flannerygeorgalis.com
swiegerig@flannerygeorgalis.com

Joshua B. Sterling*
William E. Havemann*
Matthew J. Laroche*
Milbank LLP
1101 New York Avenue NW
Washington, DC 20005
T: (202) 835-7500
F: (202) 263-7586
jsterling@milbank.com
whavemann@milbank.com
mlaroche@milbank.com

Grant R. Mainland*
Milbank LLP
55 Hudson Yards
New York, NY 10001
T: (212) 530-5000
F: (212) 530-5219
gmainland@milbank.com

Attorneys for Plaintiff

**Pro hac vice forthcoming*