

Northern Territory Racing Commission

Reason for Decision

Applicant:	Mr H
Respondent:	Sportingbet Australia Pty Ltd
Proceedings:	Dispute Relating to Betting – Section 85 of the <i>Racing and Betting Act</i>
Heard Before:	Full Racing Commission
Date of hearing	27 October 2010
Appearances:	Mr Malcolm Richardson, Manager Racing

Background

1. Mr H holds an account with Sportingbet and has done so since 27 July 2003. On 21 August 2010 Mr H placed a number of First Four wagers through his account on the outcome of Race 7 at Warwick Farm. The wagers including the winning combination a total of 25 times. Each of the wagers was for \$32.00 for total outlay by Mr H of \$800.00. Mr H had selected the Victorian TAB dividend to be applied and the dividend declared was \$20,439.70.
2. Had Mr H been paid the full dividend for each of the 25 successful wagers he would have received \$510,992.50. Sportingbet, in reliance on its rules relating to maximum payouts, paid \$50,025 to Mr H comprising \$49,225.00 in winnings plus the \$800.00 stake.
3. By email dated 24 September 2010, Mr Anthony Waller, Finance Director and Legal Counsel for Sportingbet Australia Pty Ltd, referred the matter to the Commission pursuant to Section 85 of the *Racing and Betting Act* ('the Act').

Consideration of the issues

4. Section 85 of the Act provides, relevant to this matter:

85 Legal proceedings in respect of bets

(2) Where a dispute relating to lawful betting occurs between a bookmaker and a person, the dispute shall be referred by the bookmaker, and may be referred by the other party to the dispute, to the Commission.

Section 85(7) of the Act provides that in determining a dispute under this Section, the Commission shall not be bound by rules of procedure or evidence but may inform itself of the facts necessary to determine the dispute in such manner as it thinks fit. In this instance the Commission determined that there was sufficient information before it to determine the dispute on the papers and that a hearing involving the parties was not required.

5. The factual dispute between the parties is uncomplicated. It is agreed that Mr H placed 25 winning First Four wagers on race 7 at Warwick Farm on 21 August

2010. There is no dispute that the Victorian TAB paid a dividend of \$20,439.70 in respect of the First Four result. Mr H claims he should have been paid \$510,992.50 by Sportingbet, being 25 times the winning dividend. Sportingbet claims that the rules applicable to clients utilising its services restrict the maximum payout per client per event to \$50,000. Mr H is disputing the capping of his wager and is seeking to recover an additional \$460,967.50.

6. The Racing Commission has conducted a full investigation of the issue raised in the dispute, including consideration of the rules applied by Sportingbet to gambling conducted by its clients.

7. The Commission is cognizant of Sportingbet's Rule 101 which states:

*For metropolitan Thoroughbred venues, for Quinellas, Exactas, Trifectas and First Fours, Sportingbet pays the dividend and winning combinations as declared by the Selected TOTE to a maximum payout of **\$50,000 per Client per event**. (emphasis added).*

For non metropolitan Thoroughbred venues, all Harness and all Greyhound for Quinellas, Exactas, Trifectas and First Fours, Sportingbet pays the dividend and winning combinations as declared either the Selected Tote or SB Odds to a maximum payout of \$25,000 per Client per event.

8. The Commission is cognizant of Sportingbet's Rule 38 which states:

Unless otherwise agreed in writing by Sportingbet, the maximum amount that may be paid out on any win wager via the Internet (both singles and multiples) is AUD\$50,000. This is regardless as to whether the wager is accepted via the Internet at the time of placing the wager. In addition, all multiple wagers are subject to a maximum win of 2,500 times the Client's wager.

9. The Commission cannot see any room for the interpretation of Rule 101 other than that proposed by Sportingbet. The rule clearly limits payouts on First Four wagers to \$50,000 per client per event. In this case the client was Mr H and the event was race 7 at Warwick Farm. Mr H placed 25 bets on a successful First Four outcome which would clearly have resulted in a payout in excess of \$500,000 were it not for rule 101. That rule, clearly in the opinion of the Commission, limits the amount payable to Mr H to a maximum of \$50,000.

10. In order to accept the interpretation advanced by Mr H the Commission would need to interpret 'event' in Rule 101 to mean 'wager' so that the maximum payout for each 'wager' is limited to \$50,000. In the Commission's view that represents a strained or contrived interpretation of the rule and one which the Commission is not prepared to adopt.

11. Rule 33, whilst perhaps repetitive of the matters covered by Rule 101, is to the same clear effect, namely that winning payouts are limited to \$50,000 per event.

12. As rules can vary from one operator to the next, the onus has and always will be for the customer to familiarise themselves with the contingency that they are wagering on. As a client of Sportingbet, the client has deemed to have accepted these Terms and Conditions and Sportingbet's Privacy Policy when registering a Betting Account and/or placing a wager with Sportingbet via the telephone or via the Sportingbet website. These rules which have been approved by the Racing Commission, the controlling body for Northern Territory licensed bookmakers, are clearly displayed on the website and can be obtained by contacting the bookmaker directly. If the

client does not agree to all of the rules, they should not conduct business with Sportingbet.

13. In this case, there is no evidence that the client Mr H has approached Sportingbet to request an increase in the maximum payout limits.
14. For the above reasons, and subject to the qualification set out in the next paragraph, the Racing Commission is satisfied that Sportingbet have acted appropriately and within its rules by capping Mr H's winnings.
15. The Commission notes that Sportingbet paid to Mr H the amount of \$50,025, comprising \$49,225.00 in winnings plus the \$800.00 stake. As noted above, Mr H outlayed \$32.00 for each First Four bet. The payout of \$49,225.00 equates to Mr H receiving winnings for 2.4 of his 25 wagers. In the Commission's view Mr H is entitled to a refund for the 23.6 wagers for which he received no dividend, namely \$723.00, plus the \$50,000.00 maximum payout.

Decision

16. The Commission has determined to resolve this gambling dispute in favour of the Bookmaker, Sportingbet Australia Pty Ltd. The Commission is of the view that the appropriate payout to Mr H, taking account of the applicable Rules, was capped at a maximum of \$50,000. In addition, Mr H is entitled to a refund of the unused or unapplied portion of his wager, that is the amount of \$723.00 being 23.6 of the 25 units wagered.
17. The Commission notes in the correspondence from Mr H's solicitors various references to possible breaches of the *Trade Practices Act*, including misleading conduct and false representations. The Commission has no view in respect of those allegations and is not the forum in which complaints of that nature can be ventilated or determined. However, the Commission understands that the parties have resolved that aspect of the dispute through negotiations, the details of which are unknown to the Commission.

Richard O'Sullivan
Chairman

23 December 2010