

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

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<b>Complainant:</b>	Mr I
<b>Licensee:</b>	Sportsbet
<b>Proceedings:</b>	Pursuant to section 85(2) of the <i>Racing and Betting Act</i> – Referral of dispute to Racing Commission for determination
<b>Heard Before: (on papers)</b>	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr James Pratt
<b>Date of Decision:</b>	21 March 2019

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### Background

1. On 22 September 2018 pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the Northern Territory licensed sports bookmaker, Sportsbet.
2. The complainant is primarily aggrieved that a bet that he placed with Sportsbet on the outcome of a horse race was resulted by Sportsbet as a losing bet.
3. The complainant advised the Commission that he placed a bet in the amount of \$2,500 for race horse Noor Dropper to place in Race 7 at Toowoomba Turf Club on 16 September 2018. At the time of placing the bet, the complainant states that the Sportsbet betting site that he was using to place the bet showed that a third place dividend would be payable in the amount of \$18,750 should Noor Dropper place third.
4. Noor Dropper subsequently ran third in the race, however the complainant's bet was not resulted by Sportsbet as a winning bet. The complainant advised the Commission that he disputed this outcome with Sportsbet at the time via Sportsbet's live chat facility and was advised by Sportsbet that he was correct and that the bet should have been resulted as a winning bet.
5. At the time of lodging his dispute with the Commission, the complainant had not received a payout from Sportsbet on the bet despite the advice that the complainant states he received from Sportsbet at paragraph 4 above.
6. Following the lodging of the dispute with the Commission, the complainant and Sportsbet entered into negotiations to resolve the dispute between themselves, at which time the complainant requested the Commission to place its investigation into the dispute on hold.
7. On 29 September 2018, Sportsbet advised the Commission that Sportsbet had resolved the dispute directly with the complainant after having come to a mutually suitable agreement. When seeking confirmation of this with the complainant, the complainant advised the Commission that the dispute had not been resolved.

8. Further information was sought from Sportsbet by the Commission including a recording of a telephone conversation that Sportsbet advised the Commission was between Sportsbet and the complainant. It is during that conversation that Sportsbet state that an agreement between the complainant and Sportsbet was reached so as to resolve the dispute.
9. The complainant has advised the Commission that he has no recollection of this telephone conversation occurring and that having heard the recording, he does not believe that it sounds like him.
10. In response to the primary issue of the dispute, Sportsbet advised the Commission that at the time of the complainant placing the bet on Noor Dropper to place in Race 7 at Toowoomba on 16 September 2018, there were only seven runners in the race following the earlier scratching of one horse and as a result, no third place dividend was payable. Sportsbet advised the Commission that this approach in resulting bets is supported by Sportsbet's Rules which detail that when there are eight or more runners in a race, first, second and third place will result in a dividend being paid. However, where there are seven runners, dividends are only paid on the horses who run first or second.
11. In response to the second issue of complaint regarding the resolution of the dispute between Sportsbet and the complainant, Sportsbet have advised the Commission that they consider that the personal verification processes they took at the time of the telephone conversation were sufficient to identify the receiver of the call as the complainant. Additionally, the receiver of the call was knowledgeable about the detail of the dispute and after having accepted a monetary amount to resolve the dispute and which was placed into the complainant's Sportsbet account by Sportsbet, money was transferred from the complainant's Sportsbet account to his personal bank account.
12. During the investigation of this dispute, the complainant has raised a third issue of complaint, namely that Sportsbet have engaged in false and misleading advertising through advertising that a third place dividend would be paid out on Noor Dropper at the time the complainant placed the bet even though a scratching had occurred which would result in only the first and second dividend being paid out.
13. In response to this issue of complaint, Sportsbet have advised the Commission that Sportsbet advertised markets reflect the information available to Sportsbet at the time and that they use all available resources to ensure correct dividends are communicated to its customers. Sportsbet advised the Commission that whilst the complainant is entitled to test his claim that Sportsbet engaged in false and misleading conduct before the Australian Competition and Consumer Commission or Consumer Affairs, Sportsbet are of the view that the claim is "*...totally without foundation...*"
14. Information in relation to this dispute was gathered from both parties by Licensing NT betting inspectors appointed by the Commission and provided to the Commission to consider the dispute on the papers.
15. The Commission considers it timely to note in this decision, its appreciation of the work undertaken by Licensing NT betting inspectors when dealing with betting disputes on the Commission's behalf. It is often the case that customers of sports bookmakers who lodge disputes with the Commission are usually quite aggrieved, some seriously so and the Commission acknowledges the frustrations experienced

by customers of sports bookmakers who do not receive payments to which they believe that they are entitled.

16. Licensing NT betting inspectors engage with complainants regularly when investigating disputes for the Commission with the majority of these interactions being cordial and polite. It is disappointing to the Commission that in this particular dispute matter, the complainant was verbally abusive to a Licensing NT betting inspector during a telephone call and despite apologising for this behaviour in a subsequent email to the betting inspector, again made disparaging and derogatory comments to the betting inspector in the same email in which he had apologised for his previous behaviour. This behaviour by the complainant is unacceptable and is not condoned by the Commission.

## Consideration of the Issues

### Resolution of the dispute by the parties

17. The Commission encourages all customers of sports bookmakers who have a dispute with a sports bookmaker to attempt to resolve the dispute directly with the sports bookmaker involved. It is only when a customer of a sports bookmaker is not satisfied with the outcome of the resolution of the dispute or the dispute remains unresolved that the matter will be investigated by the Commission.
18. Email correspondence from the complainant to a Licensing NT betting inspector dated 27 September 2018 in which the complainant advises that following his direct contact with Sportsbet, *"Sportsbet have put an offer on the table (so to speak) in an attempt to resolve this matter between us parties"* demonstrates to the Commission that the complainant and Sportsbet were in communication in an attempt to resolve the dispute. This is further supported in the same email by the complainant's stating:

...I inquire if you are able to put your investigation on hold until I can let you know if Sportsbet and I were able to find a satisfactory resolution or not?...All I want after all is justice and a fair outcome and if Sportsbet can provide this themselves I would be happy for your regulatory investigation not to proceed.
19. Prior to the above advice being provided by the complainant and as per usual processes undertaken by Licensing NT betting inspectors, the complainant's dispute was referred to Sportsbet, seeking a response to it. On 29 September 2018, Sportsbet advised the Commission that Sportsbet had resolved the dispute directly with the complainant.
20. On 2 October 2018, a Licensing NT betting inspector contacted the complainant via email and sought confirmation from the complainant that the dispute had been resolved directly with Sportsbet. In response the complainant advised that he had discovered evidence that Sportsbet had, *"...deceived me, lied to me and totally pulled the wool over my eyes in attempting to resolve this matter in-house."*
21. The Commission is not often minded to examine the interactions of a sports bookmaker and their customers when resolving a dispute between themselves. However, due to the claims of the complainant that he has no recollection of the

conversation in which Sportsbet claim that that they reached an agreement with the complainant, the Commission has decided to make an exception in this case. It is a very serious allegation being made by the complainant that Sportsbet have fabricated a resolution and advised the Commission that it had done so, if it did not in fact occur.

22. All sports bookmakers licensed in the Northern Territory are required to ensure all conversations with customers involving discussions relating to wagers, complaints or disputes, regardless of medium, are recorded on approved recording equipment and as indicated at paragraph 8, Sportsbet provided the Commission with a recording of a telephone conversation in which Sportsbet claim that a resolution between it and the complainant had been reached.
23. The complainant advised the Commission on 10 October 2018 that he did not recall having this conversation with Sportsbet. On 15 October 2018 after having been provided a copy of the audio file of the conversation, the complainant advised the Commission that, *"I still do not recall being involved in this conversation myself, it doesn't sound like me."* The complainant then goes on to say that, *"...without Personal Identification Verification steps having been performed by Sportsbet, it is impossible for anyone to be 100% absolutely certain who was a party to the conversation."*
24. Sportsbet were provided an opportunity to respond to the claim by the complainant that he did not participate in the telephone conversation. As part of that response, Sportsbet advised the Commission that they were satisfied that the identity of the person being spoken to by the Sportsbet representative during the call made on 29 September 2018 was that of the complainant. Sportsbet advised the Commission that the recipient of the telephone call:
  - affirms his first name is [the same as the complainant];
  - proceeds to converse with the [Customer Service] operator on the Call;
  - illustrates his familiarity with the existing...complaint;
  - discusses the details of the initial bet he placed;
  - accepts [Sportsbet's] good faith offer of [a monetary amount] (plus \$200 bonus bets);
  - leads the operator to believe that he will contact the [Commission] to confirm the matter is closed; and
  - having been placed in receipt of the settlement funds, subsequently transfers a substantial amount into his personal account. This bank account was linked by [the complainant] to his [Sportsbet] account and has been regularly used by him to process withdrawals.
25. The Commission has listened to the recording of the telephone conversation and confirms that the claims made by Sportsbet as detailed in paragraph 24 above are factual. The Commission further notes that the person to whom the Sportsbet representative was talking to in that telephone conversation, when asked if he could also advise the Commission that the dispute had been resolved, stated:

Yeah well, I actually contacted them the other day cause umm, I said look can you just put it all on hold cause you know in a bit of negotiation phase so they said they won't do a thing till they hear back from me so.

26. During this telephone call, there is no indication to the Commission that the recipient was anything but cogent and coherent. The recipient acted in a friendly manner and expressed himself clearly and was easy to understand.
27. In addition, the Commission has sighted an email from the complainant to Sportsbet dated 1 October 2018 (two days after the disputed telephone call) in which the complainant advises Sportsbet that he had identified another horse race in which Sportsbet had advertised that it would pay out a third place dividend despite there being less than 8 runners in the race. In this email, the complainant states:
 

I will give Sportsbet one last opportunity to...correct their error and payout my entire due winnings of \$18,750.00. Given Sportsbet have already, via a manual adjustment updated my account with [a monetary amount], only [a monetary amount] is outstanding...Failing receipt of this [monetary amount] manual adjustment as stipulated, my original dispute with the NT Racing Commission will be resumed...
28. Given the above, the Commission is satisfied that the complainant did participate in the telephone call of 29 September 2018 with a representative of Sportsbet. The Commission is further satisfied that at that time, the complainant did agree to a payment of monies to resolve the dispute.
29. As such, it is apparent to the Commission that the complainant has been less than truthful with the Commission about his engagement with Sportsbet. The provision of false information to the Commission by the complainant is extremely disappointing given the Commission's role in determining disputes.
30. It is clear to the Commission that following the resolution of the dispute by the complainant and Sportsbet, the complainant has discovered information that has caused him to be no longer satisfied with that outcome. It is at this time that the complainant should have simply advised both Sportsbet and the Commission that he was no longer satisfied with the outcome of his dispute and requested that the Commission investigate the matter, rather than making untrue statements to the Commission.

### The bet

31. Despite the above actions of the complainant, the Commission has determined to investigate the substance of the betting transaction that is in dispute and make a determination as to whether the bet was a winning lawful bet or not.
32. To do so, the Commission has looked at the fundamental qualities of the betting transaction itself including examining whether the bet is one which is permitted by the Act and the conditions of the sports bookmaker's licence which include the terms and conditions of agreements entered into between sports bookmakers and their customers.
33. In that respect it is relevant to note that it is a requirement of each Northern Territory sports bookmaker's licence that the sports bookmaker promulgates a detailed set

of terms and conditions for wagering (often referred to as the Rules) which both parties are bound by when an account is opened and each time a bet is struck. By opening an account with Sportsbet, the complainant has accepted Sportsbet's terms and conditions as particularised on their website.

34. Relevant to this dispute are several of the Sportsbet's Rules that are specific to racing, being Rule 3 and 4 detailed below:
  3. Where there are 8 or more runners in a race, a place shall be paid on first, second and third places. If you wagered on a fixed PLACE bet when the field had 8 or more runners and the field later reduced to 7 or less runners, first, second and third places will be paid, but deductions may apply.
  4. Where there are 7, 6 or 5 runners in a race, a place shall be paid on first and second places only.
35. The Commission, after having examined the complainant's Sportsbet Client Betting Statement and Bet History Details notes that on 16 September 2017, the complainant placed a \$2,500 bet on race horse Noor Dropper to place in Race 7 at Toowoomba Turf Club being run on that same day.
36. Noor Dropper subsequently placed third in this race, a fact that is not in dispute. It is also not in dispute that there were seven runners in the field that started the race following the scratching of Stellar Power earlier in the day.
37. The complainant in support of his dispute provided the Commission with the Sportsbet Final Results page which listed Noor Dropper as having run third and that a payout of \$7.50 was resulted.
38. Rule 4 of Sportsbet's Racing Rules clearly indicates that where there are five to seven runners in a race, payment of a place dividend will only be made on first and second places only. As a result, Sportsbet resulted the complainant's bet as a losing bet in accordance with Rule 4 of their Racing Rules.
39. The complainant contacted Sportsbet via live chat and queried why the bet had not been paid. The Sportsbet representative at that time advised the complainant that he was, "...100% correct and will get this sorted asap."
40. The complainant made further contact with Sportsbet the following day as his betting account had not been credited with any payment. In response, Sportsbet advised the complainant that they had reviewed his bet and were satisfied that the bet had been settled correctly due to there being only seven runners in the field following the scratching of Stellar Power.
41. The Commission notes that Rule 3 of the Sportsbet Racing Rules detail that if a bet has been placed on a race that at the time of the placement of the bet had a field of eight or more runners, first, second and third place dividends will be paid. Whilst not a specific issue of this dispute as the complainant has not claimed to have placed his bet prior to the scratching of Stellar Power, it may go some way to explaining why Noor Dropper showed a dividend on the Sportsbet Final Results following the race as bets made by other customers of Sportsbet on Noor Dropper placing in the race prior to the scratching of Stellar Power would have received a dividend payout.

42. Despite the advice provided to the complainant by Sportsbet via live chat after the race in that the bet was a winning bet, the Commission finds that Sportsbet's actions in settling the bet as a losing bet were in accordance with their terms and conditions. As such, the Commission has determined that whilst the bet was a lawful bet, the bet was not a winning lawful bet and that there are no moneys payable on it by Sportsbet to the complainant.

#### Advertised market at bet placement

43. The complainant's third issue of complaint is that he considers that Sportsbet have engaged in false and misleading advertising by advertising that a third place dividend would be paid out on Noor Dropper at the time the complainant placed the bet even though a scratching had occurred which would result in only the first and second dividend being paid out.
44. The Commission notes that the complainant claims to have identified a second event where the pre-market advertising by Sportsbet was that a third place dividend would be paid despite there only being seven runners in the race. It is this information that caused the complainant to resurrect his issue of dispute with the Commission despite having come to an earlier agreement with Sportsbet to resolve his dispute.
45. Complaints relating to issues of false or misleading advertising fall within the jurisdiction of regulatory bodies such as Consumer Affairs and/or the Australian Competition and Consumer Commission and as such the Commission is not positioned to make a determination in this regard.
46. The Commission however notes that Sportsbet's licence conditions require Sportsbet to comply at all times with all applicable laws in force in Australia. Further, Sportsbet is required to inform the Commission of any investigation by any regulatory body into the activities of Sportsbet that could be expected to raise doubts about its suitability to hold a sports bookmaker licence. Whilst the Commission has not formed any view in relation to Sportsbet's advertising of Race 7 at Toowoomba Turf Club on 16 September 2018, should any determination be made by a regulatory body against Sportsbet in relation to this, the Commission would review that decision and take whatever action that it considered appropriate at that time.

#### **Decision**

47. On the basis of the information provided and for the reasons set out above, the Commission finds that Sportsbet's actions in settling the bet as a losing bet were in accordance with their terms and conditions to which the complainant had agreed to at the time of opening his account. The Commission has determined that whilst the bet was a lawful bet, the bet was not a winning lawful bet and that there are no moneys payable on it by Sportsbet to the complainant.
48. The Commission also finds that the complainant did participate in the telephone call of 29 September 2018 with a representative of Sportsbet in which a resolution to the dispute was agreed to. The Commission is of the view that the complainant provided false information to the Commission however, the Commission has not

taken this inappropriate behaviour into account when making its finding in relation to the bet not being a winning lawful bet.

49. The Commission has also formed the view that the complainant's repeated abusive behaviour when dealing with a Licensing NT betting inspector during the investigation of this dispute was inappropriate and this behaviour is not condoned by the Commission. Again, the Commission has not taken the complainant's inappropriate behaviour into account when making its finding in relation to the bet not being a winning lawful bet.

## **Review of Decision**

50. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to it pursuant to section 85 of the Act shall be final and conclusive as to the matter in dispute.



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Cindy Bravos  
Presiding Member  
Northern Territory Racing Commission

21 March 2019