

Northern Territory Racing Commission

Reason for Decision

Applicant:	Mr D
Respondent:	Betezy Pty Ltd
Proceedings:	Dispute Relating to Betting – Section 85 of the <i>Racing and Betting Act</i>
Heard Before:	Mr Richard O’Sullivan (Chairman) Mr Philip Timney Mr David Brooker
Date of hearing	3 February 2011
Appearances:	Mr Malcolm Richardson, Manager Racing Mr Eddie Berry, Racing Inspector

Background

1. By email dated 21 January 2011 Mr D lodged a complaint with the Manager Racing in respect of his dealings with Betezy Pty Ltd (Betezy). The complaint concerned an issue relating to Mr D’s inability to withdraw funds from his Betezy account.
2. Mr D states that he opened an account online with Betezy on 6 January 2011 following which he was offered a credit facility. He deposited \$5,000.00 into the account and was given a \$5,000.00 credit facility. Mr D commenced betting through the account on 8 January 2011 and subsequently lost his \$5,000.00 stake plus the \$5,000.00 credit allowance. He deposited a further \$10,000.00 on the same day and then bet successfully to achieve a positive balance of \$29,304.15.
3. Mr D says that on 18 January 2011 he emailed to Betezy 100 points of identification as required by Betezy’s Rules for new account holders. Mr D states that he received advice from Betezy that he had satisfied their identification requirements and that his account was activated for withdrawals. He states that, prior to 5.00 pm on Wednesday 19 January 2011, he requested a payment of \$14,304.00 and, on checking his account late on the following Thursday, he noticed that the payment had not been made. Mr D then contacted Betezy’s ‘live chat’ service and was advised there were discrepancies with his identification that would take a couple of days to sort out.
4. Mr D complains that, at no time prior to him contacting Betezy’s ‘live chat’, was he advised there were any problems with his identification documents and that Betezy had enticed his initial deposit only to renege on payment when he won. He alleges that the payment remained outstanding as at 21 January 2011. Mr D also complained that his credit facility was withdrawn without notification to him. He submitted a transcript of his conversation with Betezy’s staff via the ‘live chat’ facility on 20 January 2011 in support of his complaint.

5. On 28 January 2011 the Manager Racing sent the following email to Messrs Vince McDonald and Ryan Kay of Betezy:

We have considered the complaint lodged by Mr D and note he has satisfied your ID requirements, has supplied details of his credit cards and been advised by Betezy that all is OK. (all attached).

He has not expressed any concern that someone is using his account – and, provided they are doing it with his knowledge (they have to be using his pin) it would appear there are no issues.

Unless you can provide relevant evidence or information as to why you are not processing his requested withdrawal it is likely the Commission will direct you to pay him asap.

I await your further advice.

6. After a follow up email from the Manager Racing on 1 February 2011, Mr McDonald responded to the complaint via email of the same date. The full content of Mr McDonald's email is set out below:

Malcolm/Ed

*Interesting **that you support this crook**_who has got all Corporates and he has admitted on tape by accusing Hamish of giving him up. Did you listen at least to what he had to say. Without the support of the authorities when we are scammed like this is nothing short of disgusting.*

*I am faxing you today two letters from the same solicitor over **his previous bogey name used with us Gary Towle**.*

One letter demanding payment for H (D) and one letter refusing to pay (Towle)

He is making a mockery of NT system and us.

***Our terms and conditions state that no one can use any one else's account**-also it would be in the money laundering act.*

I am told by Peter St James you used these rules to rule in favour of Luxbet The exact opposite to what you are saying to us.

*This will become a major issue-finding against a well known commission agent who bets with all Corporate Bookmakers and **then finding in favour of a known con man with a long criminal record** using the rule in one case and ignoring it in the other.*

There is easily enough here to make this a matter for the Court

*In the letter from the solicitor in reference to Towle they have requested that we show the 100 points. **This suggests the information supplied to us was in fact forged.***

We have in the D case been faxed a NZ drivers licence etc which I expect also to be forged. Skye has placed the matter with the NSW Police

I expect support in the matter from you. I believe we are on the same side. (Emphasis added).

7. A further email from Mr Kay to the Manager Racing on 1 February 2011 advised of the following additional points:

Recordings made when Neil H was drunk on 26th January 2010 have him clearly saying he was D and then five minutes later H

Recordings on 26th Jan 2010 have him admitting he has bet on other peoples accounts

Recordings on 26th Jan 2010 have him accussing Hamish of giving him up, that he was using the D account

The mobile phone number (0416398064) used on opening Ds account online is answered by Neil H

The IP address (58.168.21.173) used when opening Ds account has been used to login to the following accounts 1. Neil H (10299) 2. Neil H (40299) 3. Ron Wilson (4642) 4. Garry Towle (103698) 5. Mr T (15126) 6. Mr T (103938) 7. D (125006)

I have attached further calls from D and Neil H. We had no knowledge the bets were placed by Neil H until Hamish alerted us and we suspended the account.

The solicitors used by D and Gary Towle are identical

8. The Commission was provided with recordings of 'live chat' conversations between 'Mr D / Mr H' and Betezy staff late on 26 January, early on 27 January (3 separate calls) and on 7 February 2011. The language used by the caller on those occasions was obscene, obnoxious and offensive in the extreme.
9. It is also obvious to the Commission, having listened to the recorded conversations, that the calls referred to were all made by the same person. However, during 2 of the calls on 27 January 2011 the caller identifies himself as 'Neil H'. The 'live chat' operator is clearly aware he is speaking to the same person during the calls received on 26 and 27 January, despite the caller identifying himself both as D and then Neil H. Mr McDonald's email, set out in paragraph 7 above confirms the Commission's view that H / D is most likely the same person or that Mr D is impersonating Mr H. Mr McDonald's email also contains the allegation that H / D uses a further alias of 'Gary Towle'.
10. On 1 February 2011, the Manager Racing sent a further email to Mssrs Vince McDonald and Ryan Kay of Betezy noting Betezy's allegation that Mr D had used false identification in opening his account and seeking evidence in support of that serious allegation and Betezy's subsequent decision to withhold the funds in the account. The Manager Racing also queried why Betezy was doing business with a person who had allegedly undertaken previous 'scams' and whom they regarded as a 'crook. He advised that, without further evidence supporting the claim of fraud on the part of Mr D, the Commission was likely to direct that the funds be released.
11. Betezy provided none of the further evidence or information requested by the Manager Racing, nor did they present any evidence to support the allegation Mr D had used fraudulent documents in opening his account, a particularly serious allegation.
12. Instead, on 4 February 2011, the Manager Racing was copied into email correspondence between Betezy and Mr D regarding a proposed settlement of the complaint. By email dated 2 February 2011, Mr Kay made the following offer of settlement to Mr D:

As per verbal agreement made between Neil H and Adam Sparrow we wish to confirm the following:

1. *\$15,000 will be paid to you being the amount that Neil deposited via credit card*

2. *Balance of account will transferred to Neil Hs account*
3. *Neil H is able to bet with funds transferred to his account*
4. *Neil H credit facility will remain in place at original balance*

Can you please confirm you accept the above.

Many thanks

Ryan

13. The Commission notes that Mr Ryan's email is purporting to settle the dispute with Mr D on the basis of an agreement reached with Neil H, an apparent alias of Mr D's as indicated by the 'live chat' recordings and from the assertions made by Betezy in its response to the complaint. Of significant concern to the Commission is the fact that Betezy has made an offer of settlement to Mr D, based on a collateral agreement with Mr H, despite the fact Betezy was of the view they were one and the same person.
14. The response from Mr D to Mr Kay is equally bizarre in that Mr D also refers to his '*consultation with Neil H ... prior to accepting your arrangement*'. The final paragraph of Mr D's email is particularly disturbing to the Commission in the context of this dispute and states:
*I would like to make it clear that if your arrangement is accepted with the above terms I am not admitting any liability or wrongdoing in respect to my account. I believe Betezy have been not only immoral but unethical in their conduct of this account. **The account was wholly my responsibility and should have been treated as such.*** (Emphasis added).
15. The statement appears to be an admission on the part of Mr D that he was responsible for the Neil H account. The evidence before the Commission indicates that, on at least 2 occasions, D purported to be Neil H. Betezy made an offer to D to set up a new account for Neil H with a zero balance and a credit facility, despite their stated concerns as to the identity of both persons and the suspicions regarding opening the account on the basis of fraudulent documents.
16. The Commission has seen no evidence, other than Mr D's dubious statement in his response to Betezy's offer of settlement, that Neil H was even consulted, let alone agreed to the proposed arrangement that included transfer of funds to his account. The Commission has cogent evidence on which to base a conclusion that Mr H's agreement was not sought, either directly or indirectly, as D and Neil H may well be the same person.

Consideration of the issues

17. The email chain forwarded to the Manager Racing on 4 February 2011 clearly indicates that the dispute between D and Betezy has been resolved by agreement. In the normal course, the Commission would accept this advice and take no action in respect of any further investigation of the complaint on the basis the parties had reached a mutually agreeable settlement.
18. In this case the Commission is not prepared to adopt the usual course due to significant concerns in respect of the bona fides of D / Neil H and the suspicion raised that they are in fact the same person and/or that fraudulent documents were utilised to open their accounts with Betezy. Those concerns were acknowledged by Betezy in Mr Kay's email of 1 February 2011 in which he

acknowledged that Betezy was aware that Mr D and Mr H were the same person using the same IP address and mobile phone number. He also noted the suspicion that Gary Towle was a further alias used by D.

19. Mr Kay's email also acknowledges that that Mr D's IP address was used to place wagers through the following accounts:
 1. Mr H (10299)
 2. Mr H (40299)
 3. Mr W (4642)
 4. Mr GT (103698)
 5. Mr T (15126)
 6. Mr T (103938)
 7. D (125006)
20. Despite the significant concerns in respect of the identity of D / H it would appear that Betezy remains prepared to do business with a person of dubious bona fides who, in their own words is a '*crook who has got all Corporates*' and '*a known con man with a long criminal record using the rule in one case and ignoring it in the other*'. The settlement proposal put forward by Betezy begs the question as to why they would wish to continue to deal with a person allegedly using several aliases and apparently placing wagers through numerous accounts in different names. Those matters constitute breaches of Betezy's own Racing Rules.
21. Similar to all corporate bookmakers licensed in the Territory, the Betezy Racing Rules provide:

A Client may only have one (1) Client Betting Account unless otherwise agreed to by the Bookmaker. If a Client has additional Client Betting Account(s) held in other names, then the account balances of all associated Client Betting Accounts shall be transferred into the original Client Betting Account and;

a. If, after the transfers the original Client Betting Account has a debit balance, the Bookmaker shall be entitled to receive payment for the debit balance immediately; or

b. If, after the transfers there is a credit balance in the original Client Betting Account, the credit balance will be held by the Bookmaker until such time as a determination has been made by the Bookmaker as to whether or not there has been a breach of these Rules.
22. The Commission notes that Betezy has acknowledged, in Mr Kay's email, that both H and Mr T hold duplicate accounts with Betezy, despite the Rule prohibiting that practice. Betezy has also alleged that D has been placing wagers through all of the accounts identified in paragraph 19 above without authorisation by Betezy or the actual account holders.
23. Betezy, along with all corporate bookmakers licensed in the Northern Territory, is required to have in place the appropriate audit and probity checks to ensure that it is dealing only with persons whose actual identity is known to them and whose bona fides have been verified. In addition, corporate bookmakers have a positive legal obligation to verify the identity of their account clients for the purpose of Anti-money Laundering and Counter Terrorism legislation.

24. It appears obvious from the evidence presented to the Commission by Betezy that it is not properly discharging its obligations in that regard in its dealings with D / H and a number of other suspect account holders. Betezy also concedes that H and Mr T have 2 separate operating accounts with Betezy, in breach of Betezy's own Racing Rule. That unacceptable situation is compounded by Betezy's allegation that D is suspected to be accessing all of the 7 accounts listed in paragraph 19 above. The Commission wishes to know what Betezy has done or intends to do in respect of the acknowledged breaches of its own Racing Rules.
25. Betezy's responses to Mr D's complaint raise issues that go further than simply the problems he encountered when trying to transfer funds from his Betezy account. The information provided by Betezy indicates a dismissive regard for the requirements to properly identify clients and to ensure that account clients comply with its own Racing Rules.

Decision

26. The Commission has determined to take no further action in respect of the specifics of the complaint lodged by Mr D on the basis he has withdrawn his complaint.
27. The Commission does however issue a caution to Betezy in respect of its obligations to ensure that its account holders, and persons accessing the accounts of clients, are properly identified as bona fide and legitimate clients. The Commission's concerns in this regard will be referred to in the event of any future dispute in respect of the identity and bona fides of Betezy's clients.
28. In addition, the Commission seeks from Betezy written advice as to:
 - The basis on which Betezy is now satisfied that Messrs D, H and/or GT are in fact different people and able to operate separate and distinct accounts;
 - The circumstances that resulted in H and Mr T holding 2 concurrent accounts each in breach of Betezy's Racing Rules and the remedial action that has been taken to rectify that situation;
 - What measures Betezy has taken to ensure the D no longer has access the accounts of other clients identified in paragraph 19 above; and
 - What measures Betezy has put in place to protect its staff members from further occurrences of personal abuse and being subjected to the vile and offensive language used by D / H in recorded conversations with Betezy's 'live chat' service staff.

The written response from Betezy, in respect of the matters identified in this paragraph, is to be provided to the Manager Racing within 14 days of the date of publication of this decision.

Richard O'Sullivan
Chairman

24 March 2011