

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Licensee:	Betezy Pty Ltd
Complainant:	Mr E
Proceedings:	Pursuant to section 85(4) of the <i>Racing and Betting Act</i> . Referral of dispute to the Racing Commission for determination
Heard Before:	Mr Richard O'Sullivan (Chairman) Mr John McBride (Commissioner) Mr John Boneham (Commissioner)
Appearances:	Mr Mark Wood, Betting Inspector Mr E, Complainant Mr Chris Ryan, Chairman of Betezy Pty Ltd
Date of Hearing:	16 July 2014
Date of Decision:	22 August 2014

BACKGROUND

- 1) Mr E, an account holder with licensed sport bookmaker Betezy Pty Ltd ("Betezy") on 19th December 2013, lodged a complaint against Betezy in relation to an "alleged" number of bets he placed via text message to Betezy VIP Customer Service Manager Mr Gary Daniels on the evening of 29 November 2013.
- 2) As a result of this "alleged" betting activity Mr E claims that he is owed the sum of \$169,000 by Betezy (his purported winnings from this activity).
- 3) It should be noted that Betezy Pty Ltd no longer conducts a sports bookmaking business having sold the business to BetEasy Pty Ltd effective from 1 July 2014. They were however, a licensed bookmaker at the time of the alleged betting dispute and as such, investigation of this matter is the responsibility of the Northern Territory Racing Commission ("the Commission").
- 4) This matter has been the subject of a lengthy investigation by Mr Mark Wood (Licensing Inspector – Gambling and Licensing Services - Department of Business Northern Territory Government).
 - a. Mr Wood's investigation has been thoroughly documented and this information was made available to the chairman and Commissioners of the Commission, prior to the decision being taken to conduct a Hearing.

- 5) Following receipt of this information the Commission determined that a Hearing be scheduled for Wednesday the 16 July 2014. This Hearing was subsequently held, the details of which will be documented later in this report.

DETAILS OF CLIENT COMPLAINT

- 6) Mr E has alleged that on the evening of 29 November 2013 he placed wagers with his VIP Manager Mr Gary Daniels on a series of events conducted throughout the evening. Mr E alleges the wagers were placed by text message with the staff member and resulted in him "being up \$169,000.00".
 - a. The staff member (Mr Daniels) later denied the wagers were ever placed with him and that the client is not owed any money.
- 7) It is important to note that Mr Daniels was not authorised to accept bets as his role was strictly limited to ensuring his allocated VIP clients received a top level of service, be invited to selected events and functions and made aware of any new services offered by Betezy. In short, a customer service and marketing role, not that of a bookmaker or its agent authorised to accept bets.
- 8) At the time of the alleged text betting Mr E account with Betezy was suspended due to the fact it was in debit \$14,966.44 against a credit limit of \$15,000.
- 9) It is submitted by Betezy that Mr E wished to wager on 29 November 2013 and was continually contacting Mr Daniels in an attempt to be allowed to bet via the normal telephone and internet channels. Eventually Mr Daniels sent emails to Mr Chris Ryan, Chairman of Betezy with screenshots or photos of a document purporting to be a bank transfer of \$50,000 into the Betezy account. Mr E sought to rely on the photos as evidence he had executed the transfer in order to allow him to wager. At no time did the \$50,000 actually enter the Betezy account and it was later submitted by Mr E that he had cancelled the transfer on the 30 November 2013 as a result of the dispute over alleged wagering activity. Mr E has been asked by the Commission's investigator (Mr Mark Wood) a number of times for an original copy of the funds transfer document, however this has never been provided.
- 10) As a result of Betezy's Chairman refusing to allow any further wagering until the transfer of the \$50,000 could be confirmed, it had been alleged by Mr E that Mr Daniels offered him the following option for betting on the evening of 29 November 2013.

"The VIP Manager (Gary) advised he would accept all bets for me on the evening concerned all of which were recorded via sms. Gary advised he would be placing \$1.00 of each bet on his own account to be sure the company could see bets were placed prior to a race start. At the conclusion of the evening, Gary posted a sms stating that my

ledger balance was \$169,000.00 in credit. He stated in the same sms that he would probably lose his job and his girlfriend for what had occurred'.

- 11) Despite repeated requests by Inspector Wood, Mr E has never produced copies of these text messages or any ledger entries relating to the bets placed. Indeed Mr E has not been able to provide any authenticated or verifiable detail of any of the alleged bets, despite being requested to do so on a number of occasions.
- 12) For his part Mr Daniels denies the assertion by Mr E as to him agreeing to accept bets via text message.

COURSE OF COMMISSION INVESTIGATIONS

- 13) As has been previously stated this matter has been thoroughly investigated by betting inspector Mr Mark Wood. His detailed report was received by the Commission on 8 May 2014.
- 14) After due consideration of Mr Wood's report the Commission decided that it was prudent to have this matter dealt with, by way of a Hearing to which all interested parties would be invited to attend.
 - a. This Hearing was duly held on Wednesday 16 July 2014 commencing at 10am. A summary of this Hearing follows.
- 15) Hearing held at Northern Territory Racing Commission office 16 July 2014.
- 16) Following instruction from the Chairman regarding the conduct of the Hearing, proceedings commenced.
- 17) Mr Mark Wood spoke in some detail to his report to the Commission (Dated 8 May 2014).
- 18) Both Mr E and Mr Ryan were given the opportunity to question Mr Wood at opportune intervals. Both parties were also given the opportunity to state their cases in some detail.
- 19) Mr Wood submitted to the panel of Commissioners, that this matter should be dealt with in two distinct parts. Firstly whether the bets having been placed by text message, were indeed deemed to be lawful. Secondly, if declared to be lawful, then the case should proceed and all relevant further matters to be presented to the Commission.
- 20) Pursuant to Section 85 of the *Racing and Betting Act* ("the Act") provides for this proposed procedure:

“85 Legal proceedings in respect of bets

- (1A) *For the purposes of this section, a bet is not lawful if it is declared by the Commission, after an investigation in accordance with this section, to be not lawful.*
- (1) *Subject to this section, a person may take proceedings for the recovery of moneys payable on a winning lawful bet, or for the recovery of moneys payable by a bettor on account of a lawful bet made and accepted.*
- (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.*
- (2A) *Where it appears to the Commission, on the complaint of a person or of its own motion, that a sporting event (other than a horse race, trotting race or greyhound race) may not have been fairly or lawfully conducted or for any other reason the result of the event, either generally or in relation to a particular bet or class of bets, is not what would be legitimately expected if all steps in the proceedings of the event or the declaration of its result were honestly and fairly conducted or declared, the Commission may declare the event to constitute a dispute for the purposes of this section and declare any person to be a party to the dispute.*
- (3) *Where a dispute has been referred under subsection (1) to the Commission or declared under subsection (2A), the Commission may:*
- (a) summon the parties to the dispute to appear and to give evidence before it;*
 - (b) take evidence relating to the dispute from other persons; and*
 - (c) require a party to the dispute to produce any books, accounts, tickets or other documents which, in the opinion of the Commission, ought to be examined in order to determine the dispute.*
- (4) *The Commission shall hear and determine all disputes referred to it under this section.*
- (5) *Where a party to a dispute who has been summoned to attend before the Commission fails without reasonable excuse to attend, the Commission shall determine the dispute in favour of the party who attends or, in the case of a dispute declared under subsection (2A), as it thinks fit, including declaring the event void.*
- (6) *The determination by the Commission of a dispute referred to it under subsection (1) shall be final and conclusive as to the matter in dispute.*

(7) *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.*

- 21) The Commission, having itself considered the facts of the case, agreed that the legality of the bets was the first consideration pursuant to S85(1A) and should be thoroughly investigated before the proceedings went any further.
- 22) Both Mr E and Mr Ryan were given further opportunity to address the specific issue of the legality of the bets from their perspective.
- 23) Prior to this occurring the Chairman (Mr O'Sullivan) cautioned both parties to the dispute that they were under oath and that any admission by either party as to unlawful betting, could open them up to future criminal charges, as outlined at Part IV Division 1 Section 18 of the *Unlawful Betting Act* of the Northern Territory.
- 24) Mr E submitted that the bets had been placed with Mr Daniels by text message (as previously stated in this report) and he drew the Commission's attention to clause 8 of the Betezy licence.
- 25) At this juncture of the Hearing, paragraph 8 of the bookmaker's license was scrutinized by the panel.

Paragraph 8 reads as follows:

"The sports bookmaker may accept bets by use of the telephone, internet, facsimile or any other electronic means approved by the Commission, at the designated premises on approved sporting events, provided that there is in place a system approved by the Commission in writing, to record all bets, disputes and queries."

- 26) Mr Ryan on behalf of Betezy affirmed that on no occasion has his organisation accepted bets made by text message. He also reaffirmed that Mr Daniels as a VIP Customer Service Manager was not authorised to accept bets by any means.
- 27) Mr Wood (Betting Inspector) again raised the issue of determination as to whether the "alleged" bets were legal or not.
- 28) The Commissioners agreed that this was an issue to be resolved as a priority and through the Chair, it was decided that the panel should retire to consider the legality of the "alleged text bets", prior to hearing any further submissions.
- 29) Should the bets be declared unlawful, the panel deemed that the Hearing would be concluded and no further submissions would be taken.
- 30) The Hearing was duly adjourned at approximately 10:55am.

31) At approximately 11:20am the panel returned, having discussed the issue of the lawfulness of the “alleged” bets.

DECISION

32) The Chairman advised all parties that in the opinion of the Commission the alleged bets were not deemed to be lawful, with the decision being handed down ex tempore, with written reasons to follow. The Hearing was then concluded, however before this occurred, the Chairman outlined the reasons behind this decision to all in attendance. They are as follows-

33) Paragraph 8 of the standard conditions of Betezy Pty Ltd Licence, in part reads:

“The sports bookmaker may accept bets by use of the telephone, internet, facsimile or any other electronic means approved by the Commission”.

34) The rules of the bookmaker do not provide for text betting.

35) There is no history of the bookmaker seeking approval to conduct text betting.

36) Evidence was provided at the Hearing that no previous text bets had been taken by the bookmaker.

37) Mr Daniels as a VIP Manager was not authorised to take bets.

38) There is no record available to the Commission of the alleged bets.

39) Further to the above, paragraph 8 also stipulates that all bets made should be at the bookmakers authorised premises, that betting slips be completed, that audit logs of bets/transactions be kept for independent scrutiny by gambling and licensing staff.

40) None of the requirements could have been met with regards to the alleged text bets.

41) For all of the reasons stated above the Commission, pursuant to S85(1A) of the *Racing and Betting Act*, determines that the bets (allegedly placed) were not lawful.



Richard O'Sullivan
CHAIRMAN

22 August 2014