

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr P
Licensee:	TopBetta Pty Ltd
Proceedings:	Pursuant to Section 85(4) of the <i>Racing and Betting Act</i> – Referral of dispute to Racing Commission for determination
Heard Before: (on papers)	Alastair Shields (Chairperson) Amy Corcoran (Member) James Pratt (Member)
Date of Decision:	6 December 2018

Background

1. On 11 December 2017, pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the Complainant lodged a gambling dispute against TopBetta Pty Ltd (TopBetta) regarding four (4) bets placed on their site “Mad Bookie” on Race 5 in Alice Springs on 26 November 2017.
2. The Complainant’s betting log indicates he placed the following four wagers on 26 November 2017 at the times specified in Australian Eastern Daylight Time (AEDT):

19:06:41 – Alice Springs Race 5 – “*Catchtherainbow*” \$20.00 @ 19.10 – Best Tote Win (Bet ID: XXXX)

19:07:29 - Alice Springs Race 5 – “*Catchtherainbow*” \$400.00 @ 19.10 - Best Tote Win (Bet ID: XXXX)

19:08:16 - Alice Springs Race 5 – “*Catchtherainbow*” \$800.00 @ 19.10 - Best Tote Win (Bet ID: XXXX)

19:13:52 - Alice Springs Race 5 – \$9.00 @ 1.01 - First Four 5/2/3/4 (Bet ID: XXXX)
3. The Complainant also provided screen shots from his mobile phone with three (3) of the above four (4) wagers in question which shows the bets had been accepted by the bookmaker with ticket numbers provided. The Complainant submits:
 - a. TopBetta deducted the above wagers from his account;
 - b. the wagers were declared winners and his account credited “...with over \$29k”;
 - c. TopBetta then made the wagers void and removed the winnings from his account; and
 - d. He placed the wagers in good faith and should stand.
4. TopBetta submits that the Complainant placed all four (4) bets on Race 5 in Alice Springs on 26 November 2017 between 19:06 and 19:13 AEDT after the race had

run. This was due to a race closing issue in their system and the race in question was left open in error after the race had been completed.

5. TopBetta submit the race in fact closed at 18:46 AEDT and was completed at 18:48 AEDT and therefore the Complainant had placed all four (4) wagers after the results were known. TopBetta provided screen shots of the TAB touch website which established that betting for Race 5 in Alice Spring on 26 November 2017 closed at 18:46:23 (AEDT) and dividends were official at 18:53:25 (AEDT). TopBetta cancelled all four (4) bets at 19:19 (AEDT) when the traders became aware of the issue.
6. TopBetta further submitted that the average wager size of the Complainant through his account prior to these wagers was \$29.56 and accordingly, the wagers of \$400.00 and \$800.00 placed by him in this instance were unusually large.

Consideration of the Issues

7. It is a requirement of each Sports Bookmaker's licence that they promulgate a detailed set of terms and conditions for wagering which both parties are bound by when an account is opened and each time a wager is struck. By opening an account with a Bookmaker, the client is accepting the Bookmaker's terms and conditions as particularised on their website.
8. In this instance, TopBetta's terms and conditions included the following clauses for the Mad Bookie website:
 1. **Licensing and general terms**
 - a) These terms and conditions ("Terms") apply to your use of the Mad Bookie website ("Website") and the services provided by Top Betta Pty Ltd ABN 87 132 843 817, a company registered in Australia under the Corporations Act 2001 (Cth), via the Website ("Services"). By using the Website, becoming a Member or placing a bet via the website you indicate your agreement to be bound by the Terms, forming a binding agreement between you and Mad Bookie. Mad Bookie is fully licensed in the Northern Territory under the license of TopBetta Pty Ltd, approved by the Northern Territory Racing Commission under a Sports Bookmaker Licence to accept bets via the internet.
 7. **Conditions Relating to Betting**
 1. Operation of our Services
 - a) You are responsible for understanding the contents of the Website and the operation of the Services. Mad Bookie reserves the right to change the format of the Services at any time, including in order to enhance such Services.
 - b) We may determine when Events are open for betting and may close the Events at any time in our absolute discretion.
 - c) Mad Bookie may take steps to block you from betting on our site if you are located in certain jurisdictions, for example the United States of America. However, you are entirely responsible for the information that you provide to us concerning the bets that you wish to place. Mad Bookie will not enquire into the reasonableness of any bets that you may offer to make. Mad Bookie will not be liable for incorrect entries made by you, including data input errors with respect to the odds, price or stake on offer.
 - d) In the interests of maintaining integrity and fairness we may, at our sole and absolute discretion, decide to suspend betting on an Event earlier than anticipated and/or void certain bets on an Event in its entirety.
 3. **Cancellation, Termination, Suspension and Breach**
 - a) Mad Bookie may restrict your access to the Services, suspend or terminate your account, withdraw your bets or void or cancel any bets outstanding to your account, in our absolute discretion with or without cause at any time, including if:
 - i. there is a technological failure;

- ii. Mad Bookie suspects that you are engaging in illegal or fraudulent activity;
 - iii. Mad Bookie suspects that you have (or may have) breached any part of the Terms;
 - iv. Mad Bookie suspects you are acting in a manner that is detrimental to the conduct of our business or which may result in legal liability for you, us or third parties; or
 - v. Mad Bookie suspects that you may be having difficulties obtaining credit.
9. It is clear on the evidence that the Complainant placed all four (4) wagers after the race had resulted. It follows that a technological failure must have occurred in the Mad Bookie site for it to have allowed the Complainant to place the wagers after the race had already run. It is irrelevant whether the Complainant was aware that the race had been run and completed. Accordingly, TopBetta was properly able to rely on clause 3(a)(i) of its terms and conditions above to void all four (4) wagers.

Decision

10. In accordance with section 85(1A) of the Act, on the basis of the information provided and for the reasons set out above, the Commission declares that all four (4) wagers of the Complainant were not lawful bets and therefore the Complainant is not entitled to the winnings associated with the four wagers as mentioned above.

Review of Decision

11. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to under subsection (1) shall be final and conclusive as to the matter in dispute.



Alastair Shields
Chairperson

6 December 2018