

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr S
Licensee:	Pointsbet Australia 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)	Mr John Boneham (Presiding Member) Mr John McBride Ms Cindy Bravos
Date of Decision:	29 November 2017

BACKGROUND

1. On 16 March 2017, pursuant to section 85 (4) of the *Racing and Betting Act* (the act) the complainant Mr S lodged a gambling dispute against the bookmaker.
2. Mr S stated that “applied for \$1000 credit limit without any credit check, just given to me over an email. Pointsbet saying I am liable for losses that exceed that \$1,000 limit”.

Details of contact – “I have explained to Pointsbet that I only asked for the \$1,000 credit, however, they are still stating I must pay the excess amount”.

3. The nature of spread betting using a Deferred Settlement Facility (DSF) allows a client to outlay monies on a wager with only approximately 20% of these monies withheld to cover the potential risk.
4. This allows the DSF client to maximise the number and amount of wagers within their credit facility.
5. Spread betting also affords a client the potential to maximise winning payouts but conversely it also can increase the amount of any losses, depending on the final outcome of the contingency being wagered on.
6. Prior to the wager being accepted these maximum win and maximum loss amounts are communicated to clients in the information icons next to each market and also on the bet slip.
7. It therefore follows that a client is made well aware as to exactly how much they can potentially win or lose prior to accepting the wager.

8. In this case Mr S was able to exceed his DSF arrangements by \$3,889 resulting in a total debt owing to the bookmaker of \$4,889.
9. The bookmaker is seeking settlement of the negative balance of \$4,889 which includes the DSF amount.
10. The client alleges he only asked for the \$1,000 DSF limit and therefore should not be required to pay back any amount over that limit (\$1,000).

CONSIDERATION OF THE ISSUES

11. The betting account was opened by Mr S on 7 March 2017, with identification requirements satisfied on 8 March 2017.
12. Mr S requested and accepted a DSF of \$1,000 on his account. This occurred on 9 March 2017.
13. From 7 March to 12 March 2017, Mr S made numerous bets, some of which were winning and some losing outcomes.
14. It is important to note that all bets were taken within the clients \$1,000 DSF limit.
15. Whilst it is acknowledged that all bets were made in accordance with agreed terms and conditions, the bookmaker has confirmed that in this instance they did not undertake a credit assessment at the time of approving the DSF.
16. This action is in contravention of Section 3 of the Mandatory Code of Practice for Sports Bookmakers – Deferred Settlement Facilities, which states as follows:
 - “3. Either the sports bookmaker or an independent external assessment institution must undertake an appropriate credit assessment of an application for a DSF. Such checks must include:
 - a) Verification of identity in accordance with anti-money laundering requirements
 - b) Confirmation of age
 - c) Confirmation of current residential address
 - d) Contact details including phone number and email address; and
 - e) Assess credit worthiness by establishing employment or source of income or by other means”.

17. In response to the Commissions query as to why the credit assessment process was not followed the bookmaker replied as follows:

“The Pointsbet credit team did not run a credit check for Mr S. In this situation we were happy to provide a \$1,000 DSF to this customer without a credit check for a variety of reasons. Firstly their lifetime deposit amounts were five times their requested DSF, showing an ability to pay. Secondly the client had come referred through previous clients that were known personally to myself. Taking this into account, we saw the risk as extremely low and a decision was made not to run a credit check.

Typically for amounts over \$1,000 we run credit checks but we do take into account depositing history, payment history and any other factors that reduce credit risk”.

18. The Commission, in making a determination in this matter have perused the detailed wagering history of Mr S with particular reference to the period 9 March to 12 March 2017, inclusive.
19. During this period Mr S made a total of 50 bets, 28 of which were settled as winning bets and 22 losing bets (including those that gave rise to the negative balance in dispute).
20. From this information we believe it is reasonable to assume that Mr S is an experienced punter well versed in spread betting protocols and possible outcomes.

DECISION

21. Whilst the Commission accept the mitigating circumstances outlined in Pointsbet’s explanation around the lack of a credit check in this instance, we remain concerned that this is in contravention of Section 3 of the Mandatory Code of Practice for Sports Bookmakers – Deferred Settlement Facilities.
22. We consider that this infraction has no material bearing on the outcomes in this dispute. However, we reprimand Pointsbet and direct that in future all DSF arrangements regardless of amount are not put in place until a credit check has been completed and a satisfactory outcome achieved.
23. As previously stated, we are satisfied that given Mr S’ short but comprehensive experience with spread betting and the fact that he acknowledged his understanding and acceptance of Pointsbet’s terms and conditions in his email of 9 March 2017, he was well aware of the possible inflated win/loss outcomes of a spread betting contract.

24. As such and in accordance with section 85 (4) of the Act, on the basis of the information provided in respect of the dispute and for reasons set out above, the Commission has determined to rule that all the disputed bets were lawful bets and therefore the negative balance of Mr S's account with the bookmaker is a legitimate outcome.

A handwritten signature in blue ink, appearing to read 'John Boneham', is positioned above the typed name.

John Boneham
Presiding Member
Racing Commission

29 November 2017