

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr W
Licensee:	Pointsbet Australia Pty Ltd
Proceedings:	Pursuant to Section 85(4) of the <i>Racing and Betting Act</i> – Referral of dispute to NT Racing Commission for determination.
Heard Before: (on papers)	Mr John Boneham (Presiding Member) Mr Andrew Maloney Mr Jim McNally
Date of Decision:	13 February 2018

Background

1. On 11 June 2017, Licencing NT received notice of a gambling dispute lodged by Mr W against licenced bookmaker Pointsbet Australia Pty Ltd.
2. In his submission Mr W advises in part he “had an account with Pointsbet that closed due to gambling ruining my life. My credit limit was \$1000, but they let me bet up to \$2000. I do not have the money to repay them and have requested that they help by writing the debt off”.
3. Mr W goes on to say “their contact is Greg Reynard and he emailed me and said I will send you literature about problem gambling. I never received that. I had also requested literature on suicide prevention and never received that either”.
4. The Commission investigator subsequently sought further information from both the client and bookmaker around the establishment processes for the Deferred Settlement Facility ((DSF), the account conduct during the account operating period (July through August 2017) and the allegation that the bookmaker failed to provide responsible gambling information that Mr W had requested.
5. On 18 July 2017, the bookmaker confirmed that information around responsible gambling was not initially provided, due to an “oversight”.
6. Furthermore the bookmaker advises that the client “was pre-approved for the DSF limit of \$500 on condition of a matching deposit. No credit history check was undertaken”.
7. The client requested an increase in the DSF limit on 24 June 2017, this request being made and approved by phone, once again without any credit enquiries having been made.

8. Mr W's account was a Spread Betting Contract with an attached DSF.
9. The nature of Spread Betting using a DSF allows a client to outlay monies on a wager with only approximately 20 percent of these monies withheld to cover potential risk.
10. This allows the DSF client to maximise the number and amount of wagers within their credit facility.
11. Spread Betting also affords a client the potential to maximise winning payouts but conversely, it can also increase the amount of any losses depending on the final outcome of the contingency being wagered on.
12. Prior to the wager being accepted these maximum win and maximum loss amounts are communicated to clients via information icons next to each market and also on the bet slip.
13. 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.
14. In this case Mr W was able to exceed his DSF limit by \$1200 which took his account balance to \$2200, which has since been reduced to the amount of \$1994.75 as a result of two repayments having been made by the client.
15. The client submits that he only asked for a DSF of \$1000 and therefore should not be liable for the additional amount in question and wants the debt waived. A request that the bookmaker has refused on a number of occasions since.
16. It is worth noting at this point that Mr W is a Disability Pensioner, whose only source of income is his Government Benefit.
17. It should also be noted that the bookmaker acted appropriately in closing Mr W's account on 25 June 2017, as soon as he advised them that he had a problem with gambling addiction.

Consideration of the Issues

18. There are two separate issues that stem from this case requiring the Commission's attention.
19. Firstly, were the wagers (45 in total) made during the course of the account opening, made and processed in accordance with the bookmakers Terms and Conditions and within the parameters of a Spread Betting Contract, making them lawful wagers?

20. Secondly, was it appropriate for such an account to be opened without the stated requirements at Section 3 of the Code and Conduct for Responsible Online Gambling Deferred Settlement Facilities (The Code)?
21. The Commission has studied the betting patterns and details around specific wagers made during the three months period that the account was opened.
22. From the betting analysis it is clear the bookmaker adhered to the requirements by advising Mr W of the potential maximum win/loss outcomes for the 45 wagers made during that period.
23. It is also clear that the bookmaker acted appropriately by closing the account on 25 June 2017 as soon as they became aware of Mr W's problem gambling issues.
24. All wagers made were made within the scope of the deferred settlement limit in force at the time, as per the requirements outlined in the bookmakers Terms and Conditions.
25. However the credit checking process, income verification and protocols around provision of responsible gambling material are a little more problematic.
26. We now turn our attention to the issues which resulted in some quite serious breaches of the Mandatory Code of Practice for Sports Bookmakers – Deferred Settlement Facilities.
27. In terms of Section 3 of the Code (detailed below) bookmakers are required to conduct credit checks around credit worthiness, income source and levels, and provide a copy of the Code to the client. All of which are to be conducted prior to approval of a Deferred Settlement Facility.
28. Section 3 of the Code, specifies as follows:
 3. Either the sports bookmaker or an independent external assessment institution must undertake an appropriate credit assessment of an application for a Deferred Settlement Facility. 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 and email address; and
 - E. Assess credit worthiness by establishing employment or source of income or other means.
29. Section 3 of the Code also specifies that the customer must be supplied with a copy of the Code upon approval of a Deferred Settlement Facility.

30. Furthermore, despite the client indicating to the bookmaker that he had a serious gambling problem, manifesting itself in suicidal ideation, the requested information around responsible gambling and suicide prevention were overlooked and not provided in a timely manner.
31. This serious oversight being confirmed by the bookmaker in its response to the Commission investigator dated 18 July 2017.
32. In addition, the bookmaker confirmed on 21 July 2017, that the client “was pre-approved for the DSF limit of \$500 on the basis of a matching deposit. No credit history check was undertaken”.
33. It should be noted that on 28 June 2017, the bookmaker contacted the client to advise that the outstanding balance would not be written off, however they did offer to work with the client by rearranging a payment plan which is still in force.

Decision

34. The conduct of the account regarding requirements around Terms and Conditions appear to have been followed by the bookmaker, with the client being made aware of the potential maximum win/loss outcome of each wager.
35. Accordingly we determine that all wagers made during the period the account was open were lawful wagers and as such the negative balance of the account must stand.
36. However we are extremely concerned at the bookmakers scant regard for credit checking provisions required at Section 3 of the Code of Conduct for Responsible Online Gambling Deferred Settlement Facilities.
37. In addition an enquiry regarding the client’s income situation being that of a Disability Pensioner may have been crucial in the assessment for a Deferred Credit Facility.
38. Furthermore the bookmaker erred by not providing a copy of the Code to the client at the time the facility was approved. (Section 14 of the Code).
39. These breaches of the Code, along with the bookmaker’s oversight by not providing responsible gambling information when it was requested are of a serious nature.
40. Accordingly in terms of Section 148A of the *Northern Territory Racing and Betting Act* we impose a maximum fine of 17 Penalty Units (Value \$154 per Unit) on Pointsbet Australia Pty Ltd, for the aforementioned breaches of the Code of Conduct.
41. Such penalties amount to a total of \$2618 and are due and payable by 12 March 2018.

42. We understand that this Determination does not satisfy Mr W's request for the debt to be waived, however the Commission must act fairly to all parties. Other than the breaches of the Code of Conduct, the bookmaker acted appropriately in accepting and honouring the Spread Betting wagers and as such cannot be penalised with regard to the "mechanics" of the placement of those wagers.
43. 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 the reasons set out above, the Commission has determined the wagers to be lawful.



John Boneham
Presiding Member
Racing Commission

13 February 2018